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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1994

Addendum

ARGENTINA*

[12 October 1994]

* This document contains information additional to the initial report of Argentina (CRC/C/8/Add.2).

GE.94-70531 (E)

Introduction

1. The National Council for Children and the Family presents the additional report in accordance with the request by the Committee on the Rights of the Child and in response to the points made with regard to the form and content of the initial report for consideration by States parties under article 44 of the Convention on the Rights of the Child.

2. It should be noted that an exhaustive effort has been made to provide detailed, item-by-item information but, as indicated in the reply under item 2 of the present report, the Argentine Republic's political and administrative structure is federal in nature, by virtue of which each constituent province is responsible for its activities, particularly as pertains to social questions.

3. A Statistical Profile of the Child in Argentina*, containing information on a number of areas and indicators of social interest, such as population, nationality, households, education, employment and health, is attached. The statistical tables presented were selected from a larger set and in accordance with the availability of basic information (publications of the National Institute of Statistics and Censuses (INDEC), in particular the National Population and Housing Census). The statistics are broken down as necessary by subject-matter, and give, whenever possible, combined categories for the age group 0 to 19 years. For technical reasons, it was necessary to retain the higher age, even though the Convention defines children as being below the age of 18 years. The data are for the entire country and are by political and territorial division (provinces). For the variable "employment", the main aggregates used by the Permanent Household Survey (EPH) were retained.

Item 1

4. By Act No. 23,849 of 27 September 1990, the Argentine Republic approved the Convention on the Rights of the Child, indicated that upon ratification it would have to enter reservations to article 21 (b), (c), (d) and (e) of the Convention and made a declaration on its position regarding articles 1, 24 (2) (f) and 38 of the Convention, as stated in the Argentine report to the Committee.

5. Article 75 (22) of the new National Constitution, adopted on 22 August 1994 by the National Constituent Convention, gives constitutional status to the Convention on the Rights of the Child "... in the conditions of its applicability ...", thereby reaffirming both the reservation and the declarations. No provision was made for withdrawing the reservations, which would require the procedure set out in the above-mentioned provision, because the unilateral interpretative reservations and declarations strengthen and extend the applicability of the Convention on the Rights of the Child, in the spirit of respect for the "best interests of the child", as set forth in article 3.

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* Available for consultation in the files of the Committee secretariat.

6. The Argentine interpretation of article 1 of the Convention on the Rights of the Child is that it covers all children from conception up to the age of 18, regardless of their legal situation. The scope of article 38 of the Convention ensures protection of life and physical integrity for all children up to the age of 18.

7. The reservation to article 21 (b) to (d) of the Convention does not affect an exception in article 20 in fine of that instrument, according to which the general principle on behalf of ethnic, cultural, linguistic and religious identity is fully applicable, in keeping with the right to an identity recognized in article 8 of the Convention. Consequently, the reservations and interpretations are not contrary to the spirit of the Convention, but amplify and reaffirm the general principles which it proclaims.

Item 2

8. The Ministry of Foreign Affairs, Worship and Foreign Trade of the Argentine Republic commissioned the report on compliance with the Convention on the Rights of the Child from various bodies, including the National Council for Children and the Family, the decentralized authority which has responsibility for the functions incumbent on the State with regard to the comprehensive protection and development of children and the family. Thus, in accordance with the following articles of Decree No. 1606/90:

> "Art.2. The National Council for Children and the Family shall have the following functions and duties:
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> ...
>
> (p) To participate in activities pursuant to international cooperation agreements within its jurisdiction to which the State has acceded and its counterpart in specific assistance programmes in the area.
>
> "Art.3. In addition to the functions described in the previous article, the National Council for Children and the Family may:
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> ...
>
> (o) Participate in the conclusion and implementation of international instruments which Argentina signs or to which it accedes, when these affect or refer to areas within its jurisdiction".

9. The Argentine Republic's political and administrative structure is federal in nature, by virtue of which each constituent provincial jurisdiction has its own legislative framework and, consequently, is also responsible for specific government activities in the social, economic, health care and educational spheres, as well as for the administration and supervision of the police. This limits the possibility of having comprehensive information on the functions of the many organizations at the municipal and provincial level, whose work should appear in a general report on national activity in the area.

10. Consequently, the content of this report primarily covers the specific area of competence of the National Council for Children and the Family and the 250 non-governmental organizations integrated in it, although it also includes national government programmes directed towards compliance with the aims of the Convention, together with all the decisions of the federal public authorities, at both the constitutional and the legislative levels.

Item 3

11. The distribution of this report on the implementation of the Convention on the Rights of the Child, in accordance with article 44 (6) of that instrument, will take more definite form once this document has incorporated all the amplifications, explanations and replies requested by the Committee on the Rights of the Child.

12. The National Council for Children and the Family plans to publish and disseminate the report throughout the country and will present it at a public ceremony with media coverage on the occasion of the fourth anniversary of the deposit of Argentina's instrument of ratification, with its reservations, with the Secretary-General of the United Nations.

Item 4

13. The Federal Council for the Protection of Children and the Family is responsible for coordinating and giving effect to actions of the federal Government, provincial governments and the municipality of Buenos Aires in the field of the comprehensive protection of children and families. At its first regular session in December 1992, the Council established a set of objectives for the implementation of the Convention on the Rights of the Child, stating specifically in paragraph 20 that:

> "The State must establish mechanisms to disseminate information on the Convention on the Rights of the Child and on adolescence and the rights of the child and to that end it should:
>
> - include the topic in the curriculum at all educational levels before 1995;
>
> - ensure that ongoing dissemination campaigns are carried out at the national, provincial and municipal levels, using the media and adapting the messages to the target audience."

14. In that context, the National Council for Children and the Family implemented a programme for dissemination of the Convention on the Rights of the Child under which specialists in various fields participated in meetings, conferences and panels on a number of issues including:

(a) A conference on the Convention on the Rights of the Child;

(b) Human rights and social rights;

(c) Political rights;

(d) Civil rights;

(e) Approach to personal rights:

(i) Inherent right to life and identity;

(ii) Right to identity;

(iii) Protection against all forms of discrimination;

(f) Family and State in the framework of the Convention;

(g) Right to health in the framework of the Convention;

(h) Administration of justice for children and regulations concerning minors who have committed offences, with emphasis on articles 37 and 40 of the Convention.

15. At the second Federal Congress on Children and Young People, which took place from 22 to 24 April 1993 at las Termas de Río Hondo, in the province of Santiago del Estero, a series of workshops were held on various themes relating to children. The Congress was organized in conjunction with the first Meeting of Youth "For Our Rights", which provided a forum for young people to express their feelings and experiences with regard to their rights and the issues affecting them.

16. The following workshops were held at the second Federal Congress:

The State and non-governmental organizations. Policies concerning children and families;

Children and youth as subjects of law. Aspects to consider in view of recent modifications;

Treatment of minors in conflict with the criminal law. Minors in prisons and police stations. Preventive and alternative programmes;

Families at risk. Preventive programmes. Self-management. Community networks;

Programmes to prevent abandonment in early childhood. Focus on mothers at risk;

Adoption. Foster placement for the purpose of adoption. Administrative and judicial procedures;

Comprehensive instruction for children and youth. Spiritual and religious aspects;

Avoiding institutionalization of children with social problems. Alternative programmes;

Dealing with street children and children living on the streets;

Indigenous children. Integration without cultural breakdown;

Appropriate use of the media for matters relating to childhood and adolescence;

Child and youth workers. Monitoring of working conditions;

Micro-production enterprises for young people;

The adolescent and solitude. Integration programmes to occupy leisure time and recreation;

Comprehensive approach to drug dependency and alcoholism;

Comprehensive approach to maltreatment, violence and sexual abuse;

Comprehensive approach to a new social problem: sexually transmissible diseases and acquired immunodeficiency syndrome (AIDS);

Social integration of the disabled. Programmes for independent living;

Budget, funding and administration of economic resources under programmes dealing with children.

17. The following workshops were held at the first Youth Meeting:

Right to life and identity;

Right to freedom of expression, thought, conscience and religion;

Right to protection against all forms of physical or mental violence, injury or abuse, maltreatment or exploitation;

Right to education;

Right to rest and leisure time, to engage in play and recreational activities;

Right to be protected from economic exploitation and from performing hazardous work;

Right to health.

18. The Argentine Ministry of Culture and Education has implemented the National Programme for the Educational Rights of the Child, the goal of which is the "training of educators and the elaboration of educational strategies designed to help children and young people obtain knowledge, exercise the rights to which they are entitled and fulfil the responsibilities incumbent upon them". The Programme includes activities which are specifically designed to raise the educational community's awareness of the Convention, namely:

(a) A network of Schools for the Rights of the Child: incorporation of educational units into pedagogical, recreational and artistic community activities based on a participation model;

(b) Teacher-training in basic concepts of human rights and the role of education in the development of humanitarian and community values;

(c) Dissemination through, inter alia, artistic competitions, production of television spots, promotion of cultural events, and creation of image banks.

19. As an additional tool, the National Council for Children and the Family has published Act No. 23,849, under which the Convention on the Rights of the Child was approved, including the text of the Convention and the reservations made to it by Argentina. One hundred thousand copies have been issued in stages since April 1991 and publication will continue through 1995; copies are to be used in seminars, congresses, classes, and debate forums, with free distribution in various contexts.

Item 5

20. The Federal Council for the Protection of Children and the Family, meeting in Mendoza from 9 to 12 December 1992, following preparatory work and the conclusions of the Federal Congress on Children and Young People, which was attended by members of the national, provincial and municipal governments, representatives of various churches and religious faiths, non-governmental organizations, UNICEF, and professionals and workers in the social field in general, drew up and unanimously resolved to recommend to the national Government, the governments of all member provinces and the society of the Argentine Republic as a whole the following objectives for the period 1993-2000, in fulfilment of Decree No. 23,849 ratifying the Convention on the Rights of the Child:

"The State shall:

(1) Formulate policies on children and the family in exercise of its ineluctable responsibility to do so;

(2) Promote the development of municipal and neighbourhood community networks that provide comprehensive care to children and young people;

(3) Encourage the involvement in the implementation of its policies of legally recognized bodies and supervise and monitor their functioning, which should be consistent with the principles of the Convention on the Rights of the Child;

(4) Establish rules by 1995, through the specialized technical administrative body, for the purpose of monitoring and supervising all non-governmental organizations concerned with children and young people, thereby ensuring the effective implementation of policies consistent with the Convention on the Rights of the Child;

(5) Target its programmes on families at greatest risk and develop preventive programmes aimed at helping such families to become a key element of society and the natural medium for the growth and well-being of all its members, particularly children, by allocating to programmes of prevention a greater share of the budget than that allocated to programmes of assistance;

(6) Promote reforms designed to make education responsive to the real needs of children and young people;

(7) Promote reforms in both the substantive and procedural aspects of current legislation governing the care of children so that such legislation takes full account of the principles of the Convention and the constitutional guarantees protecting children and young people as subjects of law (1995);

(8) Remodel the organizational and functional structures, both governmental (administrative and judicial) and non-governmental, of all jurisdictions in order to bring them into line with the convention on the Rights of the Child and to ensure consistency in the elaboration and implementation of policies relating to children;

(9) Discontinue by 1996 the practice of detaining juvenile offenders under 18 years of age in police stations, municipal premises and institutions run by penitentiary and prison services;

(10) With the aid of interdisciplinary teams, develop in all jurisdictions programmes offering alternatives to the institutionalization of children and young people in conflict with the criminal law, through such mechanisms as immediate evaluation, release under supervision, individual treatment, community strategies and other approaches which do not involve deprivation of liberty;

(11) Comply with the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty when, in exceptional cases, juveniles under 18 years of age are required to be held temporarily in custody;

(12) Gradually reduce the number of children in welfare institutions, whether government or non-governmental, by increasing assistance to their families or developing programmes offering an alternative to confinement;

(13) Introduce in all jurisdictions in which these do not already exist, specific programmes catering to street children and juveniles;

(14) Put an end to all exploitation of the labour of children and young people by developing control mechanisms and promoting alternative approaches that permit children and young people to obtain:

education, job training, support for themselves and their families, and gradual incorporation into the legitimate labour force in conditions of dignity;

(15) Develop in all areas preventive programmes aimed specifically at children and young people affected by such social problems as drug addiction, AIDS, sexually transmitted diseases, domestic violence, ill-treatment and abuse, whose prevention and treatment, given their complexity, require an interdisciplinary and intersectoral approach;

(16) Promote initiatives aimed at preventing the marginalization of disabled children and young people, while fully respecting their dignity as human beings, valuing their different abilities and promoting their social integration and, where possible, independent lifestyles;

(17) Elaborate and implement programmes aimed at the advancement of families in indigenous communities, taking into account and respecting the particular cultural characteristics of each ethnic group and rejecting discrimination in all its forms;

(18) Ensure that all persons who exercise responsibility at every level over children and young people, both in public and private systems, have received proper and adequate training. Train 50 per cent of current personnel by the year 1996 and 100 per cent by the year 2000;

(19) Introduce specific labour legislation applicable to persons exercising responsibility over children, young people and families, which ensure that the particular requirements of the job have been met and provide for training and continuous evaluation;

(20) Create mechanisms for the dissemination of the Convention on the Rights of the Child by:

- including the subject in curricula at all levels of instruction by the year 1995,

- ensuring that at the national, provincial and municipal levels, educational media campaigns are continuously organized in which the message is adapted to suit its recipient."

21. The following objectives have also been proposed in the field of health:

"(1) CHILD HEALTH

* Reduce the country's infant mortality rate to 20 per thousand, paying particular attention to those areas in which the rate is higher than the national average.

* Reduce the mortality rate for children under 5 years of age to less than 23 per thousand nation-wide, paying particular attention to those areas in which the rate is higher than the national average.

* Reduce late foetal mortality by one third.

* Keep vaccination coverage at over 90 per cent throughout the country.

* Eliminate neonatal tetanus.

* Control measles.

* Reduce morbidity and mortality rates for diarrhoea and acute respiratory infections. Halve the mortality rate in such cases.

* Reduce by 20 per cent the accident mortality rate for the under-5 age group.

(2) MATERNAL HEALTH

* Reduce the maternal mortality rate to less than 0.4 per cent, focusing efforts in those areas in which the rate exceeds the national average.

* Increase anti-tetanus vaccination coverage for women of child-bearing age. Achieve 90 per cent TT coverage for pregnant women.

* Monitor pregnancy from the early months of gestation (minimum of five check-ups).

* Conduct post-partum check-ups of mothers and newborn infants and take measures to prevent genital and breast cancer.

* Promote programmes of responsible parenthood throughout the country.

(3) NUTRITION

* Eliminate severe malnutrition throughout the country.

* Monitor the growth and development of 80 per cent of children under 5 years of age.

* Reduce the incidence of underweight and premature births to less than 7 per cent.

* Control iron and iodine deficiency.

* Encourage breast-feeding. Ensure that 60 per cent of children are exclusively breast-fed at least up to the age of four months."

Item 6

22. In connection with the meeting of the Constituent Convention to reform the National Constitution, the National Council for Children and the Family drew up and distributed to each delegate a preliminary report with a view to having the "comprehensive protection of children" and the "best interests of the child" incorporated in the text of the new Constitution, which would confirm, at the highest legislative, juridical and political level, that the State would give special and preferential consideration to these principles, thereby ensuring for the child the special protection which is his due.

23. As a legal precedent, it is possible to cite the Supreme Court of Justice decision in the case of Ekmekdjian, Miguel A. v. Sofovich, Gerardo, and others, July 7-1992 (v. 1992-C), which states:

> "... That an international treaty constitutionally entered into, including international ratification, is organically federal, since the Executive concludes and signs treaties ... .
>
> "That the Vienna Convention on the Law of Treaties, approved by Act No. 19,865, ratified by the Executive on 5 December 1972 and in force since 27 January 1980, gives international treaty law precedence over internal law. This priority is now part of the Argentine legal system. The Convention is a constitutionally valid international treaty which assigns international treaties priority over domestic legislation within the framework of internal law, that is to say, the primacy of international law is recognized by the internal law itself.
>
> "That, in this connection, it should be borne in mind that when the Nation ratifies a treaty which it has signed with another State, it gives an international undertaking that its administrative and jurisdictional authorities will apply that treaty in the circumstances envisaged therein, provided that it includes descriptions of those circumstances sufficiently specific to permit its direct application. A rule is effective when it addresses an actual situation within which it can operate directly, without the need for institutions which have to be established by Congress."

24. The National Constituent Convention to reform the National Constitution decided to give the action of international treaties constitutional status. Among these treaties is the Convention on the Rights of the Child (art. 75, (22)), which is thus expressly incorporated in the legal pyramid previously erected by article 31 of the National Constitution of 1853 which states: "This Constitution, the laws of the Nation enacted by the Congress in pursuance thereof and treaties with foreign Powers are the supreme law of the Nation ...".

25. Thus, in the Argentine Republic, the Convention has acquired the highest legislative status as a result of its inclusion in the text of the new Constitution approved in August 1994, and specifically in the above-mentioned article 75 (22), which reads:

> "The Congress shall be responsible for: ... (22) Approving or rejecting treaties concluded with other nations and with international organizations and concordats with the Holy See. Treaties and concordats shall rank above laws. The American Declaration of the Rights and Duties of Man; the Universal Declaration of Human Rights; the American Convention on Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights and its Optional Protocol; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child, under their conditions of applicability, have constitutional status, do not have the effect of annulling any article of the first part of this Constitution, and must be understood as complementary to the rights and guarantees it recognizes. They may only be denounced, where appropriate, by the National Executive, subject to the prior approval of two thirds of all the members of each Chamber. Other treaties and conventions on human rights, after having been approved by the Congress, shall require the vote of two thirds of all the members of each Chamber in order to acquire constitutional status ...".

26. Thus, the Convention on the Rights of the Child is accorded, under its conditions of applicability, that is with the reservations and interpretations unanimously adopted by the Congress of the Nation under Act No. 23,849, the highest juridico-legislative status.

Item 7

27. The comprehensive protection of the child and his best interests, formalized in the inclusion of the Convention in the new National Constitution, are also incorporated in numerous provincial constitutions*, as indicated in the accompanying table, there also being extensive provincial legislation on the protection of minors.

28. In those jurisdictions which have not yet incorporated these rights, their swift inclusion is being encouraged and promoted, given the status accorded to them by the new National Constitution, which in any case has immediate effect on the provincial legislation. It is worth noting that the Province of Buenos Aires, the province with the most children, amended its constitution as soon as the rights of the child were included in the National Constitution.

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* Available for consultation, in Spanish, in the files of the Committee secretariat.

The rights of the child in the provincial constitutions

* Buenos Aires (1994)	* Río Negro (1988)
* Catamarca (1988)	* Salta (1986)
* Córdoba (1987)	* San Juan (1986)
* Chaco (1958)	* San Luis (1987)
* Formosa (1991)	* Santa Fé (1962)
* Jujuy (1986)	* Tucumán (1991)
* La Rioja (1986)	* Tierra del Fuego, Antarctica and South Atlantic Islands (1991)
* Misiones (1958)	
* Neuquén (1957)	

Item 8

29. By Decree No. 1606/90 the National Executive established the following:

"Art. 1. The National Council for Children and the Family, which has responsibility for the functions incumbent on the State with regard to the comprehensive protection and development of children and the family, is hereby established within the jurisdiction of, and directly subordinate to, the Ministry of Health and Social Welfare. It shall have technical autonomy and the degree of administrative decentralization provided for in the present Decree, without prejudice to the powers conferred in this area on the Judiciary and the Government Procurator for Juveniles.

Art. 2. The National Council for Children and the Family shall have the following functions and duties:

(a) To plan, organize and execute the policy of comprehensive development of children and the family within the framework of the existing provisions, the general principles of children's rights and the social policies established by the Ministry of Health and Social Welfare.

(b) To adopt the necessary measures to contribute to the strengthening of the family, and to guide and support it.

(c) To provide for the comprehensive protection of children and disabled and elderly persons who have been abandoned or are exposed to moral or physical danger, by taking such action as it considers appropriate.

(d) To submit for the approval of the Ministry of Health and Social Welfare a comprehensive programme of activities and an annual report on its implementation.

(e) To coordinate the participation of public institutions, non-governmental organizations and neighbourhood and public-interest bodies in general in the planning, execution and publicizing of local and regional activities aimed at the guidance and comprehensive development of the family and all its members.

(f) To carry out a policy of preventive action and protection of children within its sphere of competence.

(g) To promote the development of research and training in the area of children and the family.

(h) To supervise its institutions and services and establish rules relating to the statutes, functioning and registration of cooperative associations of such establishments.

(i) To collaborate obligatorily with the competent judges, as required, informing them immediately of any transfer or change in the situation of children placed by the courts and, at regular intervals, of the results of the care provided for each child.

(j) To make arrangements for children in care to receive education in accordance with their individual characteristics, with a view to enhancing the dignity of the person and improving the prospects for social integration.

(k) To organize and computerize the register of children in care and the register of public and private institutions and services for the protection of children and the disabled.

(l) To establish rules relating to the supervision and registration of private institutions for the care and protection of children and the disabled, to take the steps necessary to ensure compliance with these rules and to give an opinion before the said institutions are granted juridical personality, under national law.

(m) To provide support for those leaving the institutions for which it is responsible, assisting them directly, through 'old boy' associations or through other non-governmental organizations.

(n) To maintain the necessary representation in all the official advisory and supervisory bodies in the field of communications media and to ensure compliance with the child protection legislation in force.

(ñ) To organize congresses, seminars and meetings of a scientific nature and to participate through representatives in those organized by others.

(o) To provide specific technical and administrative advice for national, provincial and municipal authorities which request it and to answer the inquiries of non-governmental organizations with a justifiable interest in the subject.

(p) To participate in activities pursuant to international cooperation agreements within its jurisdiction to which the State has acceded and its counterpart in specific assistance programmes in the area.

(q) To carry out studies and assessments with a view to the progressive decentralization and debureaucratization of the organization and its programmes.

Art. 3. In order to perform the functions enumerated in the previous article the National Council for Children and the Family may:

(a) Establish the rules, regulations and provisions necessary in order duly to achieve the objectives of this decree and determine the agenda and rules of procedure for its meetings.

(b) Organize administratively all the services necessary to achieve its objectives.

(c) Propose to the Ministry of Health and Social Welfare - through the competent bodies - an area budget, a work programme and an estimate of resources.

(d) Make the necessary approaches to the courts, the Government Procurator's Office and the competent administrative authorities with a view to protecting children and disabled persons receiving care, and promote the appropriate measures.

(e) Award grants, subsidies and loans within the framework of the programmes approved.

(f) Organize its own data centre, training school and research programmes and the publication of books and periodicals in its specific field.

(g) Institute legal proceedings for the purpose of achieving its objectives.

(h) Conclude agreements within its sphere of competence with the provinces and municipalities and approach the national or provincial authorities for the purpose of achieving the objectives assigned to it by this Decree.

(i) Summon persons to appear, as necessary for the fulfilment of its mission, in which case those summoned must cooperate in the way prescribed by law.

(j) Draft rules governing the specific activities of the teaching staff, without prejudice to the supplementary application of the Teacher's Statute.

(k) Determine the forms of care and arrange for the admission and transfer of children to the most suitable establishments and programmes,

after first making the appropriate studies. Children whose cases have been dealt with by the courts may not be admitted or discharged except by order of the competent judge.

(l) Dispose of their resources within the limits of their jurisdiction and take all the administrative measures essential to the achievement of their objectives, within the same limits.

(m) Perform the functions enumerated in and derived from Act No. 22,359 (National Fund for Children and the Family).

(n) Sponsor and approve the realization of studies, research, conferences and training and technical assistance activities connected with specific topics within its sphere of competence in so far as they do not entail expenditure for the State or can be provided for within the budget of the National Council for Children and the Family.

(ñ) Approve programmes and projects, within budget limits and within the plan referred to in article 2 (d) above.

(o) Participate in the conclusion and implementation of international instruments which Argentina signs or to which it accedes, when these affect or refer to areas within its jurisdiction.

(p) Set up committees or working parties for limited purposes, with their own staff, whether permanent or temporary, with the possibility of inviting the participation of other entities and other areas of government.

(q) Propose the conclusion of agreements with the competent authorities for the issuing of diplomas and training certificates to children receiving assistance.

(r) Conclude agreements with institutions or enterprises to provide training and jobs for those it has assisted.

The powers conferred upon the National Council for Children and the Family are not to be understood as limiting its activities undertaken for the purpose of achieving its objectives, in accordance with the legislation in force.

Art. 14. The National Council for Children and the Family shall propose its definitive structures, paying particular attention to the following areas of operation:

(c) Research and training:

Special priority shall be given to programmes of research in the problem areas of concern to the National Council for Children and the Family, the systematization of that research in a data centre and its dissemination by means of periodicals or specialized publications.

A School of Specialized Training in Children and the Family shall be organized to coordinate all the courses, seminars and conferences on

the subject for the ongoing training of the professional, technical and administrative personnel of the institution and of others who, by agreement, have access to the system.

For this purpose it may rely upon the support of national and international entities, public or private."

30. The research and training activities of the National Council for Children and the Family have been consistent with the Convention on the Rights of the Child, as may be seen from the various parts of this report.

31. For its part, Decree No. 775/93, article 2, strengthens the functions and duties mentioned above by granting the National Council for Children and the Family economic and financial self-government for the administration of its resources, as a decentralized agency of the Argentine civil service.

32. A federal order signed in the city of San Juan in 1982 established in the Argentine Republic a Federal Council for the Protection of Children and the Family to which all the provinces belong and which is presided over by the head of the National Council for Children and the Family which, in its turn, is the country's representative on the Directing Council of the Inter-American Children's Institute of the OAS.

33. At all these levels, national, federal and regional, full compliance with the Convention on the Rights of the Child is being urged.

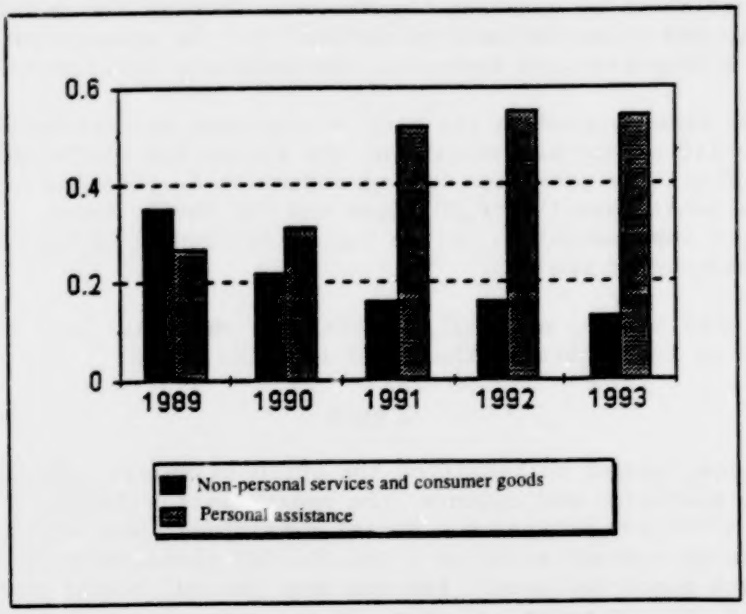
Item 9

34. The national budget on behalf of the child is mainly composed of the expenditure on education and culture, the appropriation for which in 1995 is equivalent to 2,757,300,000 pesos. Social development and welfare follow in importance with an appropriation of 1,366,000,000 pesos, most of which will go to families with minor children. For the same period, health has been allocated 1,019,200,000 pesos, of which 50 per cent will probably be spent on mothers and children.

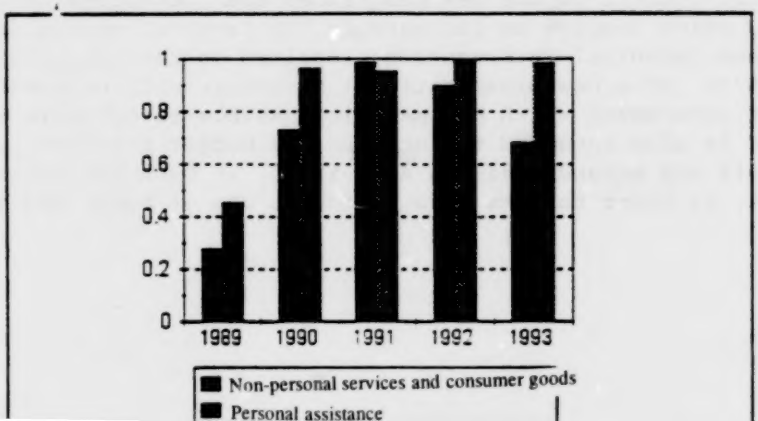
35. The total expenditure is made up of items in the national, provincial and municipal budgets. For example, within the social chapter, the Province of Buenos Aires is investing 367,800,000 pesos in education and 453,900,000 pesos in health and social development and welfare.

36. Specifically, at the national level, the budget of the National Council for Children and the Family (40,461,000 pesos) is intended for children in the situation envisaged in article 20 of the Convention. The need to adapt the structure of the Council to the new programmes and techniques in the field of child welfare, which require an increase in the level of specialized professional and technical intervention, resulted in the adoption, under Decree No. 775/93, of a new organizational structure with economic and financial self-government which has made it possible to optimize the available resources. It is also intended to increase the budget for 1995, take on additional staff and expand training activities, at both the internal and the external level, in order to make more efficient use of human and material resources.

Appropriation	Non-personal services and consumer goods		Personal assistance	
1989	375 598	35%	291 582	27%
1990	8 130 327	22%	11 321 581	31%
1991	10 315 900	16%	33 222 700	52%
1992	8 860 000	16%	29 998 000	55%
1993	8 952 000	13%	35 912 000	54%
1994	12 138 000	17%	40 461 000	56%



Commitments	Non-personal services and consumer goods		Personal assistance	
1989	106 925	28%	129 948	45%
1990	5 918 733	73%	10 833 612	96%
1991	10 257 658	99%	31 565 975	95%
1992	8 024 912	90%	29 988 629	100%
1993	6 128 173	68%	35 299 378	98%



Item 10

37. Article 1 of Act No. 23,849, approved and ratified by the Argentine Republic, states: "The Convention on the Rights of the Child, adopted by the General Assembly of the United Nations in New York (United States of America) on 20 November 1989 and consisting of fifty-four (54) articles, an authenticated photocopy of which in the Spanish language forms part of the present Act, is hereby approved". Under article 2 of the Act, ratification of the Convention is to be accompanied by the following reservations and declarations: "The Argentine Republic enters a reservation in respect of article 21 (b), (c), (d) and (e) ...". In connection with article 1 of the Convention on the Rights of the Child, the Argentine Republic declares that the article should be interpreted in such a way that by a child is meant any human being from the time of conception up to the age of 18 years.

38. This interpretation is consistent with the positive law in force and with Argentine internal public order, since article 70 of the Civil Code states: "Human existence begins from conception in the womb; and a person may acquire certain antenatal rights, as if he had already been born. These rights remain irrevocably acquired if those conceived in the womb are born alive, even though only for moments after being separated from their mother". In addition, it is stated that parental authority is the body of duties and rights incumbent on parents in respect of the person and assets of their children for their protection and comprehensive upbringing from the time of their "conception and continuing for as long as they are under legal age and have not been emancipated" (Act No. 23,264, art. 264).

39. Furthermore, the Argentine Republic has ratified the American Convention on Human Rights, "Pact of San José, Costa Rica", by Act No. 23,054 which states:

> "Art. 4. Right to life. 1. Everyone has the right to life. This right shall be protected by law and, generally, from the time of conception. No one may be arbitrarily deprived of life ...".

40. The above-mentioned article 75 (22) of the National Constitution reaffirms this position, while article 75 (23) states that "The functions of the Congress include ... Legislating and promoting affirmative-action measures which guarantee genuine equality of opportunity and treatment and the full enjoyment and exercise of the rights recognized by this Constitution and by the international human rights treaties in force, in particular those relating to children, women, the elderly and the disabled. To establish a special and comprehensive social security system for the protection of the defenceless child, from pregnancy up to completion of the period of basic education and of the mother during pregnancy and lactation."

41. Thus, it is clear that for the purposes of the Argentine legal system a child is "any human being from conception up to the age of 18", without prejudice to the semantic designation of each phase or the extension of family and social protection beyond the age of 18, as is frequently the case.

Item 11

42. Argentina has a considerable amount of both ordinary and special legislation relating to children and young persons.

43. Articles 264 et seq. of the Civil Code set forth the duties of the parents with respect to their children under the age of majority:

> "Art. 264. Parental authority is the body of rights and obligations incumbent on parents and relating to the persons and assets of their children, for their protection and full upbringing, arising at the time of conception of the latter and continuing for as long as they are under legal age and have not been emancipated.
>
> This authority shall be exercised:
>
> (1) In the case of children born in wedlock, by the father and the mother jointly, provided they are not separated or divorced and provided their marriage has not been annulled. The acts performed by one of them shall be presumed to have the consent of the other, except in the circumstances provided for in article 264 quater, or if express opposition has been declared;
>
> (2) In the case of a de facto separation, divorce or annulment of marriage, by the parent who has legal custody of the child, without prejudice to the right of the other parent to sufficient access to the child and to supervise his upbringing;
>
> (3) In the case of the death, or absence and presumed death, of one of the parents, deprivation of parental authority, or suspension of the exercise thereof, by the other parent;
>
> (4) In the case of children born out of wedlock who are recognized by only one of the parents, by the parent who has recognized the child;
>
> (5) In the case of children born out of wedlock who are recognized by both parents, by both if they live together and, if not, by the parent who has custody granted by agreement or by the court, or recognized by means of a summary proceeding;
>
> (6) By the parent who has been declared by a court to be the father or mother of the child, if he has not been recognized voluntarily.
>
> Art. 264 bis. If both parents are legally incompetent or have been deprived of parental authority or had their exercise thereof suspended, the under-age children shall be placed in the care of a legal guardian. If the parents of a child born out of wedlock are unemancipated minors, preference shall be given to the parent who exercises parental authority rather than to the parent who has the child under his care or protection, in which case the care of the former parent shall replace that of the latter parent even when he is emancipated or reaches the age of majority.

Art. 264 quater. In the cases specified in article 264 (1), (2) and (5), the express consent of both parents shall be required for the following acts:

1. Authorizing the child to marry;

2. Granting him legal capacity;

3. Authorizing him to enter a religious community, or the armed or security forces;

4. Authorizing him to leave the Republic;

5. Authorizing him to institute legal proceedings;

6. Disposing of any of his real estate, rights or other registrable property which they administer, with judicial authorization;

7. Administering the property of the child, unless one of the parents delegates such administration, in accordance with the provisions of article 294. In all these cases, if one of the parents does not give his consent, or it is impossible for him to do so, the judge shall decide what action is in the family's best interest.

Art. 265. Under-age children are under the authority and in the care of their parents. It is the duty and right of the latter to feed their children and to bring them up according to their circumstances and means, not only with the assets of the children but also with their own.

Art. 266. Children owe respect and obedience to their parents. Even if they are emancipated, they have an obligation to care for their parents in their old age or if they become insane or ill, and to provide for their needs in all the circumstances of life in which their assistance is essential to them. The other ascendants are entitled to the same care and assistance.

Art. 267. The obligation to provide maintenance includes meeting the needs of the children in respect of their sustenance, education and leisure, clothing, housing, assistance and expenditure on account of illness.

Art. 269. If an under-age child is in urgent need and his parents are unable to meet that need, the essential supplies provided shall be deemed to have been furnished with their authorization.

Art. 271. In the event of divorce, de facto separation or annulment of marriage, it shall always be the responsibility of both parents to provide maintenance for their children and to bring them up, in spite of the fact that only one of them has custody.

Art. 272. If the father or mother fails to meet this obligation, a maintenance suit may be filed against him or her by the child himself if he is an adult, with the assistance of a special guardian, one of his relatives or the Government Procurator for Juveniles."

44. The Care of Children Act (No. 10,903) also stipulates:

"Art. 4. National or provincial State care shall be exercised through national or provincial judges, with the assistance of the National Council for Children and the Government Procurator for Juveniles at the national level and of the latter or both in provinces that accept the Decree-Law. It shall be exercised with due attention to the health, safety, and moral and intellectual upbringing of the child, provision being made for his guardianship without prejudice to the provisions of articles 390 and 391 of the Civil Code" (Decree-Law No. 5286/57).

45. Act No. 13,944 states:

"Art. 1. Imprisonment for one month to two years or a fine of 500 to 2,000 pesos shall be imposed on any parents who, even without a civil judgement, fail to provide the necessary means for the maintenance of their child under the age of 18 years, or older if he is disabled."

46. Act No. 15,244 and successive amendments state:

"Art. 1. The National Council for the Protection of Children is hereby established, with responsibility for performing the functions incumbent on the State in the area of the protection of children, in keeping with the provisions of this Act and without prejudice to the powers exercised by the Judiciary in this matter ...

Art. 7. The Council is the natural agent of the National Government for ensuring the comprehensive protection of children under the age of majority. To this end, it ensures the effective application of the general provisions concerning acts and situations which may jeopardize the harmonious development of their moral, intellectual and physical abilities. As regards children who have been abandoned, are in moral or physical danger or are affected by situations of conflict, the Council is responsible for providing guidance on action by the community for their protection and assistance, carrying out by itself, where appropriate, and in accordance with the laws all acts conducive to that end. In order to achieve this, it is required to contribute to the strengthening of the family, acting for it and replacing it when the due protection of the children so requires."

47. Concerning adoption, Act No. 19,134 states:

"Art. 9. If two or more children are adopted, all the adoptions shall be of the same type. There may not be children adopted by full adoption and others by simple adoption in the same family. If, under this Act, children are adopted through the system of full adoption, any previous adoptions shall be given the same status.

Art. 14. Full adoption confers upon the adopted child a filiation which replaces the filiation of origin. The adopted child ceases to belong to his natural family and his relationship with the members of that family ceases to exist, as well as all its legal effects, with the sole exception that the impediments to marriage subsist. In the family of the adoptive parent, the adopted child has the same rights and obligations as a legitimate child.

Art. 20. Simple adoption confers upon the adopted child the status of a legitimate child, but it does not create a bond of kinship between the adopted child and the family of origin of the adoptive parent, except for the purposes expressly established in this Act. The adopted children of the same adoptive parent shall be deemed to be siblings as regards relations between themselves."

48. Decree No. 1606/90 establishing the National Council for Children and the Family states:

"Art. 13. The National Council for Children and the Family is the natural continuation of the technical and administrative bodies for the protection of children, and disabled and elderly persons which preceded it in the national system ...".

49. With regard to the general principles of non-discrimination, Act No. 23,264 amending the Civil Code eliminated any form of discrimination between children born within wedlock and out of wedlock, giving full adoption the same status as biological filiation.

"Art. 240. Filiation may occur naturally or through adoption. Natural filiation may be within wedlock or out of wedlock. Filiation within and out of wedlock and full adoption have the same effects consistent with the provisions of this Code."

50. By Act No. 23,637 (Civil courts with competence with regard to the family, status, name and capacity), the following was decided:

"Art. 4. Until such time as courts with exclusive competence for matters relating to the family and capacity of persons come into operation, eight of the existing national civil courts of first instance, to be determined by the Executive, each acting with its two secretaries, shall hear those matters on a sole and exclusive basis."

51. Act No. 21,297 protects mothers against dismissal during and after the period of confinement:

"Art. 194. In the absence of proof to the contrary, a woman worker shall be presumed to have been dismissed on the grounds of maternity or pregnancy where her dismissal is ordered within the seven and a half months preceding or following the date of childbirth, provided that she has fulfilled her obligation to notify and give appropriate certification of her pregnancy and, where appropriate, the birth of her child. In such a case, dismissal shall give rise to the payment of compensation equal to that provided for in article 198 of this Act.

Art. 197. Dismissal shall be deemed to have been ordered on the aforementioned grounds where the employer orders dismissal without giving reasons or where evidence supporting the reasons given is not produced and where the dismissal takes place within the three months preceding or the six months following marriage, provided that notification of the marriage has been duly given to the employer. Such notification may not be given before or after the periods specified."

52. Crèches are provided for by Act No. 20,744, as amended, in the case of undertakings employing a minimum number of women as determined by the relevant regulations, but since these regulations have not been formally issued, they are difficult to apply:

"Art. 179. Every worker who is a nursing mother shall be entitled to two breaks of half an hour during working hours to nurse her child, for a period of not more than one year following the date of birth, except in cases where, for medical reasons, it is essential that the mother should continue to nurse her child for a longer period. In undertakings where the minimum number of women workers determined by the regulations are employed, the employer shall provide nursing rooms for mothers and crèches for children up to the age and subject to the conditions prescribed."

53. Several provinces have established the special jurisdiction of juvenile courts, which in most cases are competent in criminal, civil and assistance matters, except in a few provinces such as Santiago del Estero, where the juvenile courts are competent only in civil and assistance matters, criminal matters being heard by the ordinary courts.

54. In the Province of Buenos Aires, Act No. 10,067/93 on the care of children and its exercise states as follows:

"Art. 1. Within the jurisdiction of the Province of Buenos Aires, the care of children is exercised concurrently and in a coordinated manner by the juvenile court judges, assessors of legal incompetence and the Under-Secretariat for Children and the Family.

Art. 2. For the purposes of the coordinated exercise of child care, it shall be understood that: (a) The judge has exclusive competence to decide on the situation of a child in a state of abandonment or moral or material danger and is required to take all necessary guardianship measures in order to provide the child with protection; (b) The assessor of incompetence, in his capacity as representative of the child and society, is vested with all powers necessary to monitor effective compliance with the provisions intended to protect the child; (c) The Under-Secretariat is responsible for planning and executing - on its own account or through the municipalities - overall policy on children, as regards both prevention, and the training and rehabilitation of children placed in establishments under its authority or control pursuant to the mandates of the competent courts.

Art. 10. The juvenile courts shall be competent:

(a) When juveniles under 18 years of age are suspected of having committed, or been a party to, an act defined by law as a serious, ordinary or minor offence;

(b) When the health, security, education or morals of minors are jeopardized; by misconduct or serious or minor offences by their parents, guardians or third parties; by infringements of the legal provisions relating to education and employment; or when, as a result of being orphaned or for any other reason they have been left in a state of material or moral abandonment or are in danger of being so left, in order to provide protection and support, to secure moral and intellectual education for the child and, where appropriate, to punish the misconduct of his parents, guardians or third parties, in accordance with the relevant laws on children and young persons and the provisions of this Act".

55. In addition, the international treaties on the subject have been ratified by Argentina, as follows:

(a) Act No. 23,054 ratifies the American Convention on Human Rights ("Pact of San José, Costa Rica").

"Art. 1. The American Convention on Human Rights known as the Pact of San José, Costa Rica, signed in the city of San José, Costa Rica, on 22 November 1969, is hereby approved; its text forms part of this Act";

(b) The International Convention on the Suppression and Punishment of the Crime of Apartheid was ratified on 7 November 1985;

(c) The Convention on the Elimination of All Forms of Discrimination against Women was ratified on 14 August 1985;

(d) On 24 September 1986, the instrument of ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, recognizing the competence of the Committee against Torture to receive communications from individuals, was deposited;

(e) Additional Protocols I and II to the Geneva Conventions of 1949 were also approved, the instrument of ratification having been deposited on 26 November 1986;

(f) Act No. 23,160 lifted the geographical reservation to the Convention relating to the Status of Refugees, so that the benefits of refugee status are now granted to persons coming from any part of the world;

(g) On 8 August 1986, the International Covenant on Civil and Political Rights and the Optional Protocol thereto, and the International Covenant on Economic, Social and Cultural Rights, were ratified.

56. All these multilateral agreements are without prejudice to the bilateral treaties entered into by Argentina, such as the agreement with Uruguay on the protection of minors, which deals in particular with the return of minors.

57. As far as the question of children's work is concerned, it should be noted that the authority responsible for the application of labour legislation is the Ministry of Labour and Social Security. The articles that are relevant are as follows:

(a) Certificate of physical fitness

"Art. 188. An employer, when recruiting workers of either sex under 18 years of age, shall require them or their legal representatives to present a medical certificate concerning their fitness for work and shall require them to undergo the periodic medical examinations provided for in the relevant regulations."

(b) Certificate of admission. An employer, when recruiting a worker (of either sex) under 18 years of age, is obliged to require him to present a medical certificate concerning his fitness for work, which, while it may be regarded as acceptable as a prerequisite for the conclusion of the contract, does not exclude the application of rules making it necessary to establish not just that condition (fitness for work), but also the suitability of the work for the young person's mental and physical capacities. The certificate for work (in the general sense) required by article 188 does not exclude observance of the other precautions that other provisions require, whether in order that the person may conclude the contract and start work, or in order that the relationship may continue. Thus, article 35 of Decree-Law No. 14,538/44, which covers all cases of persons under 18 years of age seeking work permits, requires, both with regard to examinations for admission to work and with regard to those that have to be carried out regularly, that due account should be taken of "the young person's physical condition in relation to the nature, requirements and characteristics of the tasks he is going to perform" or is performing and of their influence on his physical, mental and moral health; this is borne in mind in the physical, psychological and psychotechnical examinations he has to undergo (Decree-Law No. 14,538/44, art. 38 (a) and (b)). The fitness examination does not overlook the health and safety conditions in the place where the young person (being examined in each case) performs his work, and even the tools that he has to use. All these measures go well beyond a mere contractual relationship, and the law accordingly confines itself to considering the possibility of the conclusion of the contract (fitness for work) or its continuance, while the other matters covered in the regulations referred to in the last paragraph of article 188 have to do with health policy and the preservation and improvement of human resources, questions which belong in the fields of labour law, public health, social security, etc.

(c) Young persons under 14 years of age. Prohibition of their employment.

"Art. 189. The employment of young persons under 14 years of age in any type of activity, whether for profit or not, is prohibited. Where the Ministry responsible for the interests of young persons so

authorizes, this prohibition shall not apply to young persons employed in undertakings where only members of the same family work, provided that the activities are not harmful, deleterious or dangerous.

A young person over the age indicated above may not be employed if he is of school age and has not completed his compulsory schooling, save where the Ministry responsible for the interests of young persons has given express authorization on the grounds that the young person's work is deemed to be indispensable for his maintenance or for that of his immediate family, provided that he satisfactorily completes the minimum period of schooling required."

(d) Prohibition of recruitment. The law has clearly fixed the minimum age for admission to work at 14 years, employers being forbidden to engage workers under that age for any kind of activity, whether for profit or not. Work is thus forbidden for children, persons being regarded as children if they have not reached the age in question (minors under the age of puberty: Civil Code, art. 127), although our labour law does not use that term to distinguish between minors under and over the age of 14. To return to the prohibition in the first paragraph of article 188, it is also stipulated that young persons over the age of 14 (but still under 18) may not be employed if they are still of school age as established by law and have not completed their compulsory schooling, except where expressly authorized and provided they satisfactorily complete the minimum period of schooling required.

(e) Working day. Night work.

"Art. 190. Young persons between the ages of 14 and 18 may not be employed in any type of work for more than 6 hours a day or 36 hours a week, without prejudice to any unequal distribution of working hours. The working hours for young persons over 16 may, with the prior authorization of the administrative authority, be extended to 8 a day or 48 a week. Young persons of either sex may not be employed on night work, that is, work during the period between 8 p.m. and 6 a.m. on the following day. In the case of manufacturing establishments performing work in 3 daily shifts covering the 24 hours each day, the period of total prohibition of the work of young persons shall be governed by this Title and, in the case of minors over age 16, by the last part of article 173 of the present Act."

(f) Working hours for young persons. Working hours for young persons between the ages of 14 and 18 may not be more than 6 hours a day or 36 hours a week, "without prejudice to any unequal distribution of working hours", in which case the working day may not exceed 7 hours and may not go beyond 1 p.m. on Saturdays if in addition the eight-hour working day has been prolonged, the work of young persons subject to the six-hour day being correlated with normal working hours (Decree No. 16,115/33, arts. 1 (b) and 8, the latter being applicable to unhealthy work, the duration of which may not exceed 6 hours a day or 36 hours a week). If the young person is over 16, with the authorization of the administrative authority his working hours may be extended to 8 a day or 48 a week, that is, the same as the normal hours for a worker over 18, but in such a case, as in all matters to do with working

hours, the extension will be that fixed by the law, professional statutes and collective labour agreements in accordance with article 196 of the Employment Contracts Act.

58. The Ministry of Labour and Social Security's concern with child labour is clearly reflected in the considerations and proposals of the National Seminar on Child Labour in Argentina, which are reproduced below:

(a) Child labour is an everyday reality which has long existed but whose scale, characteristics and tendencies are not well enough known. Among the reasons for this situation is the fact that it tends to be concealed and takes diverse and complex forms. In addition, child labour is not defined and understood and recognized by everyone in the same way, there being differences on the subject between official institutions, non-official institutions, parents and children themselves, which helps to keep it hidden;

(b) The usual statistical tools do not deal with child labour as such, which makes it difficult to find out about it. Similarly, some forms of child labour involving high personal and social risk, such as begging, drug trafficking and prostitution, are not covered by these tools;

(c) At all events, the problem is a serious one, whose dimensions are certainly greater than is usually recognized;

(d) It is therefore necessary that appropriate and continuing studies should be undertaken on the question, including statistical research dealing in depth with the characteristic forms and situations of child labour, with a view to arriving at an exhaustive account of its forms, dimensions, trends and implications;

(e) These studies should include an investigation of the variables that will explain the reasons why the existence of child labour is to a large extent denied by a considerable portion of society. The results should serve as a basis for action to reverse this social attitude;

(f) Child labour, unless carried out within the family and in appropriate working conditions, is very insecure, both in its nature and as regards its position under the law;

(g) Child labour is particularly important in informal and urban activities, and secondly in rural activities, where it may be involved in formal productive activities;

(h) Among the children who need priority care, we may mention, firstly, those who perform work or tasks which interfere with or oblige them to interrupt the cycle of formal education; secondly, those who perform tasks or work which endanger the health and psychosocial development of anyone who does them; and, fundamentally, those who are obliged, for structural or other reasons, to perform work or tasks with a high social risk;

(i) Particular importance should be attached, with the restrictions indicated, to application of the existing legislation on child labour. In particular, attention should be given to the regulation and implementation of the provisions on the authorization to work that is to be granted in certain conditions to persons who have not reached the minimum age for starting work;

(j) The provisions prohibiting the performance of work which is dangerous, harmful or arduous for the children doing it and those which protect children against economic exploitation and ill-treatment deserve special attention;

(k) With regard to labour inspection, preventive action and the intervention of civil society are highly useful. The provision of qualified staff and adequate resources are elements of fundamental importance for effective inspection;

(l) Nevertheless, improvement of working conditions for children will only be appropriate in cases where they are engaged in activities appropriate to their age and not those that should be eliminated because of their high degree of social risk or danger;

(m) It would be desirable to set up an intersectoral commission, consisting of representatives of the Ministry of Education, the Ministry of Justice, the Ministry of Labour and Social Security, the Ministry of Health and Social Welfare, the General Confederation of Workers, the Argentine Industrial Union, the Argentine Agrarian Federation, other employers' organizations and non-governmental organizations with a view, in the first place, to following up these proposals and, subsequently, to collaborating in the formulation of the national programme of action on child labour.

59. Aiming specifically at the group of minors who are exploited in work or exposed to situations which diminish their dignity, generally those under the age of 14, the National Council for Children and the Family has developed the programme against child exploitation reproduced below:

Programme against child exploitation*

1. Legal framework

2. Background

   (a) Street children programme

   (b) Order No. 270/290 of 17 August 1990

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* The description of the programme is available for consultation in the files of the Committee secretariat.

3. Objectives and methodology

4. Activities

4.1 Inter-agency coordination

4.2 Identification of cases

4.3 Community awareness campaign

4.4 Social treatment of cases

4.5 Intervention of the Government Procurator's office and the competent courts

4.6 Rescue of exploited children

5. Resources

5.1 Community

5.2 Extra-institutional

5.3 General institutional

5.4 Specific institutional

6. Investigation and specialized training of human resources

7. Dissemination and extension

Item 12

60. The National Council for Children and the Family, in conjunction with the Economic Commission for Latin America and the Caribbean (ECLAC), organized a meeting of Latin American experts on family indicators which established common indicators of relevance to the region. The group of experts on social indicators on the situation of Latin American and Caribbean families agreed to recommend that, in connection with the International Year of the Family, the countries of the region should produce a group of specific indicators so as to have to hand a comparative picture of the situation. In view of the diversity of statistical sources which could be used to prepare the indicators, it is suggested that they should basically be obtained where possible from population censuses; if this is not feasible, the latest available national household or population survey should be used. If this coverage is not possible, it will be sufficient for indicators to be based on urban surveys. 1/

61. In view of the great diversity of dates and sources, it is suggested that the indicators requested should be generated using the most recent data and that comparisons in time should be presented with data from the same source.

LIST OF INDICATORS

1. Average size of multiperson households for 1970, 1980 and 1990.

Calculation: Population in multiperson households divided by total multiperson household (per cent).

2. Overall fertility rate.

Source: The Latin American Demographic Centre (CELADE) has calculated the overall fertility rates for the countries of the region. If the countries agree, these will be the rates used.

3. Specific rate of adolescent fertility.

Source: The Latin American Demographic Centre has calculated the indicator (for women under 20 years of age). If the countries agree, these will be the data used.

4. Percentage of births to spinsters between the ages of 15 and 49.

Calculation: Births to spinsters between the ages of 15 to 49 as a percentage of total births to women aged 15 to 49.

5. Percentage of births to unmarried women between the ages of 15 and 49 (spinsters and women divorced, separated and in consensual unions).

Calculation: Births to unmarried women between the ages of 15 to 49 as a percentage of total births to women aged 15 to 49.

6. Percentage of single-person households.

Calculation: Total single-person households as a percentage of total households.

7. Percentage of nuclear households. 2/

Calculation: Total nuclear households as a percentage of total multi-person households. 3/

8. Percentage of incomplete 4/ households.

Calculation: Total incomplete multiperson households as a percentage of total multiperson households.

9. Percentage of non-single women aged between 15 and 24.

Calculation: Total non-single women between the ages of 15 and 24 as a percentage of total women aged 15 to 24.

Periodicity: This datum should be obtained for 1970, 1980 and 1990.

10. Percentage of the population aged 15 and over separated and divorced.

Calculation: All persons aged 15 and over separated or divorced as a percentage of the total population aged 15 and over married or living in consensual union.

Period: This datum should be obtained for 1980 and 1990.

Note: For this indicator, ECLAC will study the feasibility of making an additional calculation for the growth rate.

11. Percentage of women between the ages of 15 and 24 in consensual unions.

Calculation: Total women between the ages of 15 and 24 in consensual unions as a percentage of total women aged between 15 and 24 married or in unions.

12. Percentage of women aged 15 and over in consensual unions.

Calculation: Total women aged 15 and over in consensual unions as a percentage of total women in unions (married and in consensual unions) aged 15 and over.

13. Percentage of households with an economically active head and spouse.

Calculation: Total households with an economically active head and spouse as a percentage of total households with an economically active head.

Periodicity: This datum should be obtained for 1980 and 1990.

14. Percentage of households in a poverty situation for rural and urban areas.

Source: ECLAC has made the calculations for the countries of the region. If the countries agree, these will be the data used.

15. Percentage of households in a situation of overcrowding. 5/

Calculation: Total households in a situation of overcrowding as a percentage of total households.

Note: It is recommended that overcrowding should be calculated on the basis of data on the number of bedrooms; only when this information is not available should the number of rooms be used.

16. Percentage of the population under the age of 14 in homes with a poor educational environment.

Source: ECLAC has made the calculations for the countries of the region. If the countries agree, these will be the data used.

17. Percentage of the population under the age of 14 in incomplete nuclear households.

Calculation: Population under the age of 14 in incomplete nuclear households as a percentage of the total population under the age of 14 in nuclear households.

18. Percentage of the population under the age of 14 in complete nuclear households with economically active spouses.

Calculation: Population under the age of 14 in complete nuclear households where both spouses are economically active as a percentage of the total population under the age of 14 in complete nuclear households.

19. Percentage of the population under the age of 14 in complete consensual nuclear households.

Calculation: Population under the age of 14 in complete consensual nuclear households as a percentage of the total population under the age of 14 in complete nuclear households.

20. Percentage of the population under the age of 14 in poor households.

Calculation: Population under the age of 14 in poor households as a percentage of the total population under the age of 14 in households.

Source: Information supplied by ECLAC (ideally multi-person households, if not possible all households).

21. Percentage of the population under the age of 14 in extremely poor households.

Calculation: Population under the age of 14 in extremely poor households as a percentage of the total population under the age of 14 in households.

Source: Information supplied by ECLAC (ideally multi-person households, if not possible all households).

22. Percentage of the population under the age of 14 in overcrowded households.

Calculation: Population under the age of 14 in overcrowded households as a percentage of the total population under the age of 14 in households.

23. Percentage of the population under the age of 14 in households with a poor educational environment (less than six years of formal education).

Calculation: Population under the age of 14 in households with a poor educational environment (less than six years of formal education) as a percentage of the total population under the age of 14.

24. Percentage of persons aged 65 and over who do not live alone or as a couple.

Calculation: Persons aged 65 and over who do not live alone or as a couple as a percentage of all persons aged 65 and over in private households.

62. An agreement has been signed between the National Institute of Statistics and Censuses, as the managing body of the National Statistical System, and the National Council for Children and the Family to set up a working group of officials and technicians from both institutions to develop an information system on those areas covered by the Council which will contribute to improving the processes of decision-making and programme implementation, and will also include support from the local communities. Specific objectives of the system will be: (a) standardization of thematic criteria and statistics for the planning, collection and processing of data concerning the area under the Council's jurisdiction; (b) organization of training workshops and/or statistical updating of these areas and methods of collection, processing and analysis of the relevant data; (c) application of non-traditional methodologies for recording information on the problems of the Council's jurisdiction in the community; (d) constitution of indicators relevant to the area.

63. Within the framework of the agreement, the Council will take part in training the necessary staff to carry out the activities and in preparing the various projects for recording the specific data arising from these activities. For its part, the Institute will provide all advisory services, information and technical support required for the statistical tasks involved in the agreement and will take part in specific training activities.

64. In the plan of work to be implemented between August 1994 and July 1995, activities aimed at expanding and adding to available information on children and the family predominate. Existing statistics will be analysed for the purpose and a value judgement made of the content of the joint activities so as to give a full picture of children and the family.

Item 13

65. In addition to the rights established by the ratification of the Convention on the Rights of the Child, article 75 (22), in chapter 2 of the new National Constitution, contains a series of "New rights and guarantees" which, although intended for the entire population of Argentina, have a particular impact on the overall development of children, particularly in those areas referred to in articles 41, 42 and 43 set out below:

"Art. 41. All inhabitants shall enjoy the right to a healthy, balanced environment suited to human development and to productive activities which will satisfy existing needs without jeopardizing those of future generations; and they shall have the duty of conserving it. First and foremost, environmental damage shall engender the obligation of compensation, as established by the law.

The authorities shall ensure the protection of this right, the rational use of natural resources, the conservation of the natural and cultural heritage and biological diversity, and environmental information and education. It devolves on the Nation to promulgate laws which will provide the minimum prerequisites for protection, and on the provinces the requirements to supplement them, without interfering with local jurisdiction. Entry into the national territory of dangerous or potentially dangerous radioactive wastes shall be prohibited.

Art. 42. Where consumption is concerned, consumers and users of goods and services shall have the right to protection of their health, safety and economic interests; to appropriate and accurate information; to freedom of choice; and to conditions of fair and dignified treatment.

The authorities shall make provision for the protection of these rights, for consumer education, for the defence of competition against all forms of market distortion, for control of natural and legal monopolies, for the quality and efficiency of public services and for the establishment of consumer and user associations.

The law shall establish efficient procedures for the prevention and settlement of conflicts and frameworks for the regulation of public services of national jurisdiction and provide for the necessary participation of the consumer and user associations and the provinces concerned in the regulatory bodies.

Art. 43. Anyone may bring prompt and rapid amparo proceedings, provided that no other more suitable judicial remedy exists, against any act or omission of the public authorities or individuals which may at the present time or in the immediate future infringe, restrict, impinge upon or threaten, in a clearly arbitrary or illegal manner, rights and guarantees recognized by this Constitution, a treaty or a law. In such cases, the judge may declare the norm on which the harmful act or omission is based to be unconstitutional.

Such proceedings may be brought against any form of discrimination and in connection with rights protecting the environment, competition, users and consumers, and rights with an impact on the community in general, by the person affected, the Ombudsman and associations for such purposes, registered in accordance with the law, which will determine the requirements and forms of their organization.

Anyone may bring such proceedings in order to be informed of data concerning him and the object of such data existing in public or private registers or data banks for the purpose of reports, and in the event of inaccuracy or discrimination, demand that such data should be destroyed,

rectified, treated confidentially or updated. The secrecy of sources of journalistic information shall not be affected. When the right infringed, restricted, impinged upon or threatened is physical freedom, or in the event of an illegal aggravation of the form or conditions of detention or of the enforced disappearance of persons, habeas corpus proceedings may be brought by the person concerned or by any other person on his behalf and the judge shall hand down an immediate decision, even during a state of siege."

66. As an example, within the jurisdiction of the National Council for Children and the Family, while the question of the participation of children in issues concerning their own interests is implicit in all the activities of this institution it is a prominent feature of existing programmes enabling large numbers of children and young people to participate actively in workshops on: prevention of AIDS; prevention of prostitution among children and young people; right to health; prevention in dental matters; prevention of alcoholism/drug addiction; prevention of malnutrition; prevention with regard to mental health; prevention of household accidents; prevention by vaccination.

67. The direct participation of children in meetings and congresses, in legal and administrative contexts and even in legal matters is increasing. This can be seen from the national gatherings on the theme of "For our rights", organized by the National Council for Children and the Family, which bring together young people from different provinces of Argentina, as well as from various sectoral and non-governmental initiatives for the same purpose (see para. 17 above).

Item 14

68. In the previous information we failed to mention the fact that in the age group between 3 and 6 a total of 982,483 children (36.85 per cent) are attending kindergarten or pre-school educational establishments.

Population aged between 3 and 6 attending educational establishments, by age and educational level

Level	Age (in years)	Attendance	% of total = age
Kindergarten	3	160 771	23.76
	4	331 327	48.11
Pre-school	5	483 029	72.69
	6	7 356	1.16*

* This figure refers to children who have not gone on to primary school, which is mandatory in the Argentine Republic from the age of 6.

Source: National Population and Housing Census, 1991.

69. Reference was made only to activities geared to high-risk social groups, as indicated by the National Council for Children and the Family, whose operations are nationwide.

70. The country's population structure shows intensive concentration in the city of Buenos Aires and its neighbouring municipalities, which contain 33.5 per cent of the population of Argentina, with a total of 10,934,727 inhabitants for the region, according to the 1991 National Census. Children up to the age of 4 number approximately 200,000 in the federal capital, or 1 million if Greater Buenos Aires is included.

Item 15

71. While article 264 quater (7) stipulates, "... In all these cases, if one of the parents does not give his consent [to authorize the child to marry, grant him legal capacity or authorize him to institute legal proceedings], or it is impossible for him to do so, the judge shall decide what action is in the family's best interest", under Act No. 23,264 (Civil Code) the regulations are always in favour of children.

> "Art. 264. Parental authority is the body of rights and obligations incumbent on parents and relating to the persons and assets of their children, for their protection and full upbringing, arising at the time of conception of the latter and continuing for as long as they are under legal age and have not been emancipated.
>
> Art. 264 ter. In the event of a disagreement between the father and the mother, either of them may apply to the competent judge, who shall decide what action is in the child's best interest according to the most summary procedure laid down in the local legislation, after hearing the parents with participation of the Guardianship Ministry. The judge may ex officio request any information he deems necessary, and hear the child, if the child has sufficient judgement and the circumstances so advise. If there are repeated disagreements or there is any other element seriously hampering the exercise of parental authority, the judge may fully or partially attribute it to one of the parents or divide its functions between them, for the period he shall determine, which may not exceed two years.
>
> Art. 265. Under-age children are under the authority and in the care of their parents. It is the duty and right of the latter to feed their children and to bring them up according to their circumstances and means, not only with the assets of the children but also with their own.
>
> Art. 267. The obligation to provide maintenance includes meeting the needs of the children in respect of their sustenance, education and leisure, clothing, housing, assistance and expenditure on account of illness."

72. The foregoing is contained in the "Treatise on Family Law", in which Mr. Zanoni clearly states, "The general, basic principle that prevails in this area is the following: catering to the interests, needs and welfare of the

child should be the primary consideration, and decisions should be taken in accordance with those interests, yet without disregarding the legitimate rights of parents over their children."

73. It should be borne in mind that article 4 of Act No. 10,903 categorically provides: "State care ... shall be exercised with due attention to the health, safety, and moral and intellectual upbringing of the child".

74. Finally, the discrepancy concerned was eliminated on 22 August 1994 with the adoption of the new National Constitution, article 75 (22) of which gives constitutional status to all the articles of the Convention on the Rights of the Child, including in particular article 3 (1).

> "Art. 3 (1). In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

Item 16

75. The Government Procurator for Juveniles takes action in accordance with the stipulations of the Federal Civil Code, which applies to the entire country.

> "Art. 59. In addition to the requisite representatives, legally incompetent persons shall also be represented by the Government Procurator for Juveniles, who shall be a legitimate and essential participant in all judicial or extrajudicial matters, in non-contentious or contentious jurisdiction, in which proceedings are brought by or against legally incompetent persons, or in which they themselves or their assets are at issue, subject to annulment of any proceeding or action that may have taken place without their participation.
>
> Art. 61. When, in any judicial or extrajudicial proceeding, the interests of legally incompetent persons are at variance with those of their representatives, the representatives shall cease participating in such proceedings and shall be replaced by guardians specially appointed for each case."

76. In this connection, our legislation stipulates, in article 137 of Act No. 1,893, that one of the duties of the juvenile court assessors shall be:

> "1. To take action in all judicial matters involving the person or assets of under-age mentally disturbed persons and other legally incompetent persons, and to file the necessary proceedings and remedies in their defence, whether directly or jointly with their representatives."

77. The organizational acts relating to the judiciary and public prosecutor's office for every provincial judicial district establish the post of juvenile court counsel or juvenile court assessor, as it has traditionally been called.

78. At the constitutional level, article 120 provides for the Office of the Ombudsman of the Nation as an independent body with functional and financial autonomy and functional immunities.

79. Likewise, Act No. 23,984 establishes the juvenile court, the following being the relevant articles:

"GENERAL

Art. 410. In cases involving individuals under eighteen (18) years of age, proceedings shall be conducted in accordance with this Code, with the exceptions laid down in this chapter.

DETENTION AND ACCOMMODATION

Art. 411. A child shall only be detained when there are grounds for believing that he will not comply with a summons or will attempt to destroy the traces of the act or collude with his accomplices, or will induce false statements to be made. In such cases the child will be housed in a special establishment or section, separately from adults, where he will be classified according to the nature and mode of execution of the act ascribed to him, his age, psychological development and other background data and his social adaptability. Any measures concerning him shall be taken following a report by the juvenile court assessor.

PROTECTIVE MEASURES

Art. 412. The presence of the young person at the examination proceedings shall as far as possible be avoided; the court shall observe the provisions of article 76 on the subject. The court may provisionally decide to entrust the care and upbringing of any child in its custody to his parents or another person or institution whose background and circumstances provide moral guarantees, following an administrative inquiry, a hearing of the interested parties and a report by the juvenile court assessor. In such cases, the court may appoint a delegate to exercise direct supervision and protection of the young person concerned and report periodically on his conduct and living conditions.

RULES OF PROCEDURE

Art. 413. In addition to the ordinary rules, the following rules shall be observed during the proceedings:

1. Proceedings shall be held in camera, being attended only by the government procurator, the other parties, the child's defence lawyers, parents or guardians and persons having a legitimate interest.

2. The accused shall attend only when this is essential and shall be removed once the purpose of his presence has been fulfilled.

3. Attendance by the juvenile court assessor is obligatory, non-attendance rendering the proceedings invalid; the juvenile court assessor shall have the powers of a defence counsel even in cases where the accused has his own counsel.

4. The court may hear the parents or guardian, past and present teachers, employers or supervisors of the child or the tutelary authorities who may be able to furnish information enabling an assessment of his personality to be made. These statements may be supplemented by a written report. The provisions in article 78 in this connection shall also be fulfilled.

POSTPONEMENT

Art. 414. The court may, of its own motion or on the application of a party, postpone the measures ordered in respect of the security and education of the young person concerned. To that end, the appropriate inquiry may be conducted, with the interested parties being heard, before the decision is handed down."

80. Act No. 24,050 refers to the Federal Judiciary's competence in criminal matters. Its provisions include the Office of the Superintendent of Tutelary Social Services, which are dispensed by the juvenile social workers:

"Art. 42. When a final decision has been made placing a child on probation, probation shall be monitored by juvenile social workers, in conformity with judicial instructions and in cooperation with the minor's parents, guardians, teachers and employers, according to the provisions laid down in the special legislation thereon. The social workers shall be designated by the National Court of Cassation in Criminal Matters, which shall lay down regulations containing the requirements for appointment.

Art. 43. The social workers' tasks shall be coordinated and directed by a Superintendent whose rank shall be equal to that of a clerk of the court, who shall also be designated by the Court of Cassation in Criminal Matters on meeting the requirements contained in the corresponding regulations.

Art. 44. The National Court of Cassation in Criminal Matters may engage additional social workers for the purpose of advising and providing assistance to all the judicial bodies on matters requiring it. The Court may also authorize the carrying out of such tasks by the juvenile social workers, provided that that does not prevent them from fulfilling their specific functions."

Item 17

81. When Argentina's report was submitted to the Committee, in accordance with the provisions of article 44 of the Convention on the Rights of the Child, the new national Constitution had not yet been adopted. The new national Constitution, which has been in force since 22 August 1994, ratifies

articles 14-33 concerning rights and guarantees to individuals throughout the national territory and adds a set of new civil and social rights in articles 36-43.

82. The rights set forth in articles 36-40 refer to political and democrati: guarantees, which, while they do not relate directly to children, do provide for a social framework that is respectful of freedom and equal opportunity.

83. The remaining articles, which were discussed under item 13 above, relate more directly to the rights of children and refer to protection of the environment, consumer education and protection against all forms of discrimination, restriction of information or deprivation of liberty.

Item 18

84. Decree-Law No. 8204/63 concerning registration of the civil status and capacity of persons states in chapter 6 on "Birth":

> "Art. 27. The following shall be entered in the register of births: 1. All those which occur in the Territory of the Nation. The said entry shall be made before the public official assigned to the place of birth or to the real place of residence of the parents in the Republic. 2. Those whose registration is ordered by the competent judge. 3. Those which occur on board vessels or aircraft flying the Argentine flag or in places under Argentine jurisdiction. (Drafted in conformity with Act No. 18,327 and Act No. 22,159.)
>
> Art. 28. Births shall be registered within the time-limit set under local legislation, which may not exceed 40 days.
>
> Art. 29. From the date of expiry of the time-limit set under article 28 until a maximum period of one year after birth, the Directorate-General may allow registration when sufficient justification exists. On expiry of this latter time-limit, registration may be effected only by a judicial decision. (Drafted in conformity with Act No. 20,751.)
>
> Art. 29 (Original annulled version). From the date of expiry of the said time-limit until a maximum period of six months after birth, the Directorate-General may allow registration when sufficient justification exists. On expiry of the latter time-limit, registration may be effected only by a judicial decision.
>
> Art. 30. The following must request registration of the birth: 1. The father or mother or, in their absence, the closest relative at the place in question or the person to whose care the newborn child has been entrusted. 2. Administrators of hospitals, hostels, prisons, orphanages or other similar public or private establishments, in respect of births occurring therein, when the persons mentioned under 1 above have failed to do so. 3. Anyone who finds a newborn child or in whose house the child has been left. In such cases, the persons in question must hand over any clothes or other articles found. 4. The authority responsible for keeping a logbook on board vessels or aircraft, referred

to under article 27 (3) above, in the form of a copy of the entry, which should reach the Registry Office within five working days of arrival.

Art. 31. The fact of birth shall be attested by a certificate issued by the doctor or obstetrician or, in its absence, by a statement by two witnesses who have seen the infant and who shall sign the register.

Art. 32. The following information shall be entered in the register: 1. The given name, family name and sex of the infant. 2. The place, time, day, month and year of the birth. 3. The given name and family name of the father and mother and the number of the respective identity documents. In the absence of the latter, a record of identity shall be taken, including age and nationality. 4. The number of the identity form.

Art. 33. In the cases referred to in article 30, the entry in the register shall record as the place and date of birth those set down in the certificate issued by the doctor who examined the infant. If no such certificate has been drawn up, the place of birth shall be recorded as that where the infant was found and the date of birth as the mean of the most distant and the closest date recorded in the medical report.

Art. 34. In the case of a child born out of wedlock, neither the father nor the mother shall be mentioned unless either parent has officially recognized the child.

Art. 35. If more than one live child is born of the same delivery, the births shall be registered in separate and consecutive entries, each of which shall state that other infants were born of the same delivery.

Art. 36. If the certificate of the doctor or obstetrician states that the infant was stillborn, the entry shall be recorded in the register of deaths; if the certificate states that the infant was alive at birth but died immediately thereafter, both facts shall be recorded in the registers of births and deaths."

85. The Argentine Constitution explicitly recognizes the equal status of natives and foreigners in terms of enjoyment of civil rights, as laid down in article 20.

86. The Civil Code seeks to prevent illegal deprivation of identity by stating in article 242 that: "Maternity shall be established, even without explicit recognition, by the evidence of birth and the identity of the child ...".

87. With a view to preserving the identity of individuals, Act No. 18,248 in turn stipulates that:

"Art. 1. Any natural person shall have the right and the duty to use his or her given name and family name in accordance with the provisions of this Act.

Art. 2. The given name shall be acquired by entry in the birth certificate. It shall be chosen by the parents or, if either parent is missing, prevented from attending or absent, by the other parent or the persons so authorized by the parents. Failing that, it may be chosen by the guardians, the Government Procurator for Juveniles or the officials responsible for the Register of Civil Status and Capacity of Persons. Where a person has used a name prior to his or her entry in the Register, that name shall be recorded subject to compliance with the provisions of article 3. (Drafted in conformity with Act No. 23,264)"

88. The Penal Code, in articles 146 and 147, also mentions and sanctions the "abduction and retention of minors" and the "disappearance of minors" respectively inasmuch as both acts may involve illegal deprivation of identity, which constitutes a criminal and civil offence:

"Art. 146. ABDUCTION AND RETENTION OF MINORS: Anybody who abducts a minor under 10 years of age from the care of his or her parents, tutors or persons entrusted with the minor's care, or anybody who retains or hides such a minor, shall be punished by imprisonment for a period of 3 to 10 years.

Art. 147. DISAPPEARANCE OF MINORS: The same punishment shall be incurred by anybody who, being entrusted with the care of a minor under 10 years of age, fails to return him or her to the parents or guardians at their request or fails to account satisfactorily for the minor's disappearance".

89. It should be noted that, in conformity with Act No. 23,849, which ratified the Convention on the Rights of the Child, and with article 22 (75) of the National Constitution, articles 7, 8 and 9 of this Act have acquired constitutional status, as a result of which the identity of persons, and especially of children, is preserved at the highest level of legislation.

Item 19

90. As already mentioned under item 6, the National Council for Children and the Family drew up and distributed to each of the elected delegates a preliminary report with a view to having the "comprehensive protection of children" and the "best interests of the child" incorporated in the text of the new Constitution, ensuring for the child the special protection which is his due. The Constituent Convention incorporated the Convention on the Rights of the Child in the new National Constitution (art. 75 (22)), as a result of which it acquired the highest legal status from August 1994.

91. With regard to measures to prevent disease, the Civil Code contains provisions governing transmissible venereal disease and the compulsory male and female prenuptial certificate:

"Act No. 12,331. PREVENTION, IMPEDIMENT TO MARRIAGE, PRENUPTIAL CERTIFICATE:

The health authorities shall encourage and facilitate prenuptial medical examinations. The chiefs of the national medical services and the doctors appointed by the health authorities shall be entitled to issue certificates to future marriage partners on request. Such certificates, issued free of charge, shall be compulsory for males intending to marry. Persons infected with venereal disease may not marry during the period of contagion.

Act No. 16,667: SUPPLEMENTARY: PRENUPTIAL CERTIFICATE:

Art. 1. It shall be compulsory throughout the territory of the Nation for marriage partners of female sex to obtain a prenuptial certificate.

Art. 2. The respective medical examinations shall be conducted by the services of the Ministry of Social Welfare and Public Health of the Nation and of the Municipality of the Federal Capital, and by the provincial and municipal welfare services, under the same conditions as those conducted on behalf of persons of male sex. In all cases, the certificates shall be submitted to the relevant higher authority for endorsement before being displayed in the Civil Registry Office.

Art. 3. Persons infringing the provisions of this Act shall be punishable by the sanctions imposed under Act No. 12,331 and its regulations.

Decree No. 18,866. PRENUPTIAL CERTIFICATE. MUNICIPALITY OF THE CITY OF BUENOS AIRES.

Art. 1. The female prenuptial examination certificate, which is made compulsory by Act No. 16,668, shall be demanded from 1 February 1966 by the Directorate of the Register of Civil Status and Capacity of Persons from future marriage partners, who, in accordance with the provisions of decision No. 6015/65 of the Ministry of Social Welfare and Public Health, may opt for presentation to the authorities or professional persons authorized to conduct the examination, a certificate in which a qualified doctor of their choice declares that he or she has conducted the clinical examination, the signature on such certificate to be authenticated by the competent health authorities. Such a clinical examination must in all cases be supplemented by a serological examination conducted by authorized municipal professional personnel."

92. The regulations in respect of Act No. 23,798 concerning the fight against AIDS are another measure designed to prevent disease:

"Art. 1. The fight against acquired immunodeficiency syndrome is hereby declared to be a matter of national interest, that fight being understood to include detection and investigation of its causal agents, diagnosis and treatment of the disease, prevention, assistance and

rehabilitation, also of its derived pathologies, and, in addition, measures designed to prevent its spread, first and foremost education of the public.

Art. 2. The provisions of this Act and of any supplementary regulations established shall be interpreted in such a way that they cannot under any circumstances:

(a) Affect the dignity of the individual;

(b) Result in any form of marginalization, stigmatization, degradation or humiliation;

(c) Transcend the framework of the legal exceptions limiting medical secrecy, which shall always be interpreted restrictively;

(d) Invade the privacy of any member of the Argentine nation;

(e) Identify persons through files, records or storage of data, which must be kept in coded form for such purposes.

Art. 3. The provisions of this Act shall apply throughout the territory of the Republic. The implementing authority shall be the Ministry of Health and Social Welfare of the Nation through the Under-Secretariat of Health, which may assist any part of the country in ensuring implementation of the Act. Its execution in the individual jurisdictions shall be entrusted to the respective health authorities, for which purpose they may adopt any supplementary regulations they consider necessary for better implementation thereof and of its regulations.

Art. 4. For the purposes of this Act, the health authorities shall:

(a) Develop programmes designed to carry into effect the activities described in article 1, managing the resources for their funding and implementation;

(b) Promote the training of human resources and encourage the development of research activities, coordinating their action with other public and private national, provincial or municipal and international bodies;

(c) Use methods that ensure fulfilment of the requirements of maximum quality and safety;

(d) Comply with the information system established;

(e) Promote the negotiation of international agreements for the design and development of joint programmes to achieve the aims of this Act;

(f) The Executive shall take action to inform the general public about the characteristics of AIDS, the possible causes or means of transmission and contagion, advisable preventive measures and appropriate forms of therapy, with a view to preventing the unscrupulous dissemination of biased information."

93. With regard to the prevention of torture or other cruel, inhuman or degrading treatment of minors, Act No. 23,054 ratified the American Convention on Human Rights ("Pact of San José, Costa Rica"). Argentina deposited the instrument of ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 24 September 1986, recognizing the competence of the Committee against Torture to receive communications from individuals. It also ratified Protocols I and II Additional to the 1949 Geneva Conventions, depositing the instrument of ratification on 26 November 1986.

Item 20

94. It should be emphasized that numerous legislative measures have been adopted to ensure the implementation of the articles covered by this item.

95. As regards national legislation, article 264 of the Civil Code sets forth the duties of parents with respect to their under-age children.

"Art 264. Parental authority is the body of rights and obligations incumbent on parents and relating to the persons and assets of their children, for their protection and full upbringing, arising at the time of conception of the latter and continuing for as long as they are under legal age and have not been emancipated.

This authority shall be exercised:

(1) In the case of children born in wedlock, by the father and the mother jointly, provided they are not separated or divorced and provided their marriage has not been annulled. The acts performed by one of them shall be presumed to have the consent of the other, except in the circumstances provided for in article 264 quater, or if express opposition has been declared;

(2) In the case of a de facto separation, divorce or annulment of marriage, by the parent who has legal custody of the child, without prejudice to the right of the other parent to sufficient access to the child and to supervise his upbringing;

(3) In the case of the death, or absence and presumed death, of one of the parents, deprivation of parental authority, or suspension of the exercise thereof, by the other parent;

(4) In the case of children born out of wedlock who are recognized by only one of the parents, by the parent who has recognized the child;

(5) In the case of children born out of wedlock who are recognized by both parents, by both if they live together and, if not, by the parent who has custody granted by agreement or by the court, or recognized by means of a summary proceeding;

(6) By the parent who has been declared by a court to be the father or mother of the child, if he has not been recognized voluntarily."

96. Act No. 11,357 stipulates as follows:

"Art. 2. Natural mothers shall exercise parental authority over their children in terms of rights and prerogatives to the same extent as legitimate mothers. This shall also apply to natural fathers who have voluntarily acknowledged their natural children."

97. The Care of Children Act (No. 10,903) stipulates:

"Art. 4. State care shall be exercised through judges at the national or provincial level, with the assistance of the Government Procurator for Juveniles. It shall be exercised with due attention to the health, safety, and moral and intellectual upbringing of the child, provision being made for his guardianship without prejudice to the provisions of articles 390 and 391 of the Civil Code".

98. Decree-Law No. 5,286/57, amending the Care of Children Act, No. 10,903, stipulates:

"Art. 4 (Text of Decree-Law No. 5,286/57). State care at the national or provincial level shall be exercised through national or provincial judges, with the assistance of either the National Council for the Protection of Children or the Government Procurator for Juveniles within provincial jurisdiction or of both, in those provinces which undertake to implement this decree-law. It shall be exercised with due attention to the health, safety, and moral and intellectual upbringing of the child, provision being made for his guardianship without prejudice to the provisions of articles 390 and 391 of the Civil Code.

Art. 8 (Text of Decree-Law No. 5,285/57). Any juvenile who is voluntarily entrusted by his parents, tutors or guardians to a private or public welfare establishment shall remain under the permanent tutelage of the National Council for the Protection of Children for the purposes of national jurisdiction and of the duly appointed authority for those of provincial jurisdiction.

Art. 9 (Text of Decree-Law No. 5,286/57). Minors whose status has been determined in accordance with the previous articles shall remain under the supervision of the National Council for the Protection of Children or of the Office of the Government Procurator for Juveniles, as appropriate, which shall supervise the action of the respective tutors or guardians and shall inspect the private or public establishments concerned at least once a month, through their visitors, assistants,

inspectors or active members. They shall monitor the children's relationships and bring to the attention of the judge anything they deem appropriate, in the best interests of the beneficiary.

Art. 10 (Text of Decree-Law No. 5,286/57). Complaints concerning the matters covered by the previous articles may be submitted under national jurisdiction to the National Council for the Protection of Children by any legally competent individual; the Council shall conduct a summary investigation which it shall submit to the duty juvenile court assessor for him to initiate proceedings, within which the National Council for the Protection of Children must be summoned to testify in the investigation.

Art. 11 (Text of Decree-Law No. 5,286/57). If the judge so decides, the decision may simply withdraw custody of the child, in which case he or she may be handed over to the National Council for the Protection of Children, where national jurisdiction is concerned, or to the appropriate authority in the case of provincial jurisdiction; alternatively, any other of the safeguards in force may be adopted.

Art. 13 (Text of Decree-Law No. 5,286/57). Withdrawal of authority or suspension of the exercise thereof shall not discharge parents from the obligations incumbent upon them under articles 265, 267 and 268 of the Civil Code, provided they are not destitute.

Art. 13 (amended text). Loss of parental authority, suspension of its exercise or withdrawal of custody of children by virtue of this Act shall not discharge parents from their obligations under articles 265, 267 and 268 of the Civil Code, provided they are not destitute. To this end, the judge shall set the amount of maintenance and the manner of its payment.

Art. 14 (Text of Decree-Law No. 5,286/57). Judges of the criminal and correctional courts of the capital of the Republic and in the provinces or territories of the nation, before whom a juvenile aged under 18 appears charged with or as the victim of an offence, shall take preventive measures on his or her behalf if he or she is in a state of material or moral neglect or in moral danger, by handing him or her over to the National Council for the Protection of Children or by taking any other measures provided for by law. To this end, the ordinary federal courts of the Federal Capital and of the national territories shall not enforce the provisions of the law regarding pre-trial detention, which shall only be ordered if the judge deems it necessary and shall be served in an establishment run by the National Council for the Protection of Children. The juveniles may also be left in the custody of their parents, tutors or guardians under the supervision of the National Council for the Protection of Children.

Art. 17 (Text of Decree-Law No. 5,286/57). Any juvenile in respect of whom the judges referred to in the previous three articles have ordered any measures shall remain under their supervision, with the assistance of the National Council for the Protection of Children.

Art. 20 (Text of Decree-Law No. 5,286/57). The ordinary national courts of criminal and correctional appeal in the capital and the national territories shall, if they deem it desirable, appoint one or more judges exclusively to hear within their respective jurisdictions cases in which juveniles aged under 18 are charged; they shall adopt their decisions with the assistance of the National Council for the Protection of Children."

99. Under Act No. 13,944:

"Art. 1. Imprisonment for one month to two years or a fine of 500 to 20,000 pesos shall be imposed on any parents who, even without a civil judgement, fail to provide the necessary means for the maintenance of their child under the age of 18 years, or older if he is disabled".

100. Act No. 23,264, amending the Civil Code, abolished all forms of discrimination regarding filiation, and placed children born within wedlock, children born out of wedlock and adopted children on an equal footing for all purposes of civil law.

101. In the criminal sphere, Act No. 22,278 stipulates as follows:

"Art. 3. The ruling shall determine:

(a) Mandatory custody of the child by the judge, in order to ensure the child's proper upbringing, by providing comprehensive protection. To this end, the judge may order such measures as he deems desirable in respect of the child, which may be amended at any time for the child's benefit.

(b) The consequent restriction on the exercise of parental authority or custody, within the prescribed limits and in compliance with the instructions given by the judicial authority, without prejudice to compliance with the inherent obligations of the parents or guardian.

(c) Award of custody where appropriate.

The definitive ruling may be lifted at any time by a substantiated judicial decision and shall terminate automatically when the child reaches the age of majority.

Art. 4. The imposition of a sentence on a minor as defined by article 2 shall be subject to the following requirements:

(1) His criminal and, if appropriate, civil liability shall have been previously declared, as required by law.

(2) He shall have reached the age of 18.

(3) He shall have been placed under guardianship for a period of not less than one year, which may be extended if necessary until he reaches the age of majority.

Provided these requirements are met, and provided the circumstances of the case, the minor's background, the results of the period of guardianship and the direct impression formed by the judge point to the need to punish him, the judge will so decide; the sentence may be reduced as stipulated by law for an attempted crime. Conversely, if there is no need to punish the minor, the judge shall acquit him, in which case the requirement of subparagraph 2 shall not apply.

Art. 6. Custodial sentences handed down by judges on minors shall be served in specialized institutions. If minors reach the age of majority while serving their sentence therein, they shall complete their sentence in an establishment for adults."

102. Act No. 22,803 states:

"Art. 1. Article 1 of Act No. 22,278 shall be replaced by the following:

'Art. 1. No punishment may be imposed on any person under the age of 16 years. In addition, no punishment may be imposed on a person under the age of 18 years for a privately actionable offence, an offence carrying a custodial sentence of not more than two years, or an offence punishable by a fine or disqualification.

If there is any charge against a young person, the judicial authority shall order provisional action, verify the offence, arrange an interview with the young person concerned and his parents or guardian and order the relevant reports and tests for a study of his personality and his family and social situation.

If necessary, it shall place the young person in an appropriate place for the purposes of closer study for as long as may be needed.

If from the studies carried out it is apparent that the young person has been abandoned, is in need of assistance, is in material or moral danger or has behavioural problems, the judge shall, by a substantiated order, issue a final decision concerning action to be taken in the case, after having heard the parents or guardian.'

Art. 2. Article 2 of Act No. 22,278 shall be replaced by the following:

'Art. 2. Punishment may be imposed on a person between the ages of 16 and 18 who commits an offence other than those specified in article 1.

In these cases, the judicial authority shall initiate the relevant proceedings and issue a provisional order while formalities are being completed in order to enable the powers conferred under article 4 to be exercised.

Regardless of the result of the case, if it is apparent from the studies conducted that the young person concerned has been abandoned, is in need of assistance, is in material or moral danger or has behavioural problems, the judge shall, by a substantiated order, issue a final decision concerning action to be taken in the case, after having heard the parents or guardian.'

Art. 3. Article 689 bis of the Code of Criminal Procedure for Federal Justice and the Ordinary Courts of the Capital and National Territories shall be replaced by the following:

'Art. 689 bis.

1. The provisions on arrest and pre-trial detention in proceedings against persons between the ages of 16 and 18 years shall not apply.

If, because of the nature of the case and the personal characteristics of the young person concerned, there is a substantiated need to take these measures, the judge may order them, but deprivation of liberty shall take place in a specialized establishment.

2. The decision handed down concerning young persons between 16 and 18 years of age shall be in conformity with the provisions of articles 495 and 496, but when the defendant is not acquitted, it shall simply declare his criminal responsibility and, where appropriate, the responsibility he would have incurred if a criminal indemnity action had been brought both against him and against responsible third parties.

Once the legal requirements subsequent to the declaration of criminal responsibility have been complied with, the judge shall acquit the defendant or impose the appropriate penalty on him.

3. Together with the decision terminating the proceedings, the judge shall reach a decision on final action to be taken with regard to the young person concerned, after having heard the parents or guardian.

An appeal may without restriction be lodged against the final decision within a period of five days.'"

103. Articles 410-414 of Act No. 23,984 concern minors who have committed offences that carry a sentence of more than three years, to whom the provisions of this act on oral proceedings shall apply without prejudice to the provisions of substantive Acts No. 22,278 and No. 22,803.

104. These acts as a whole are supplemented by the bilateral agreements signed by Argentina, such as that with the Eastern Republic of Uruguay on the protection of minors, which makes particular reference to the return of minors.

105. As regards legislative measures taken to protect children against all forms of ill-treatment, on 1 December 1993 the Chamber of Deputies passed the following bill, which was sent to the Senate for review.

"Act to provide protection against domestic violence

Art. 1. Any person who suffers physical or mental injury or ill-treatment at the hands of a member of his family group may lodge an oral or written complaint with the judge competent to deal with family matters and apply for the relevant protective measures. For the purposes of this Act, the term 'family group' shall designate a group formed as a result of marriage or of a de facto union.

Art. 2. If the victims are minors or legally incompetent, elderly or disabled persons, the complaint shall be lodged by their legal representatives and/or the Government Procurator's Office. The following shall be also required to lodge complaints: the welfare services, the public or private social or educational services, health professionals and any public official by virtue of his office. A minor or legally incompetent person may directly inform the Government Procurator's Office of the facts.

Art. 3. The judge shall order a diagnosis of the interpersonal relationships within the family by experts in various fields, to determine the physical and mental harm suffered by the victim, the danger posed by the situation and the family's social or environmental background. The parties may request other specialist reports.

Art. 4. After he has taken cognizance of the background to the complaint, the judge may order the following protective measures:

The exclusion of the perpetrator of the acts from the dwelling he occupies with the family group;

A ban on access by the perpetrator to the victim's home and to his places of work or study;

The return to the family home, at the victim's request, of anyone who has been compelled to leave it for reasons of his personal security, with the exception of the perpetrator;

A temporary order in respect of the payment of maintenance, custody and the right to communicate with the children.

The judge shall determine the duration of the measures adopted depending on the circumstances of the case.

Art. 5. Within 48 hours of having adopted the precautionary measures, the judge shall summon the parties and the Government Procurator's Office to a conciliatory hearing at which he shall urge them and the family group to enrol in educational or therapeutic programmes, with due regard to the report drawn up under article 3.

Art. 6. The regulations pursuant to this Act shall establish measures designed to ensure that the accused and his family group receive free medical and psychological support.

Art. 7. The National Council for Children and the Family shall be informed of any complaints lodged in order for it to ensure coordination between the public and private services to avert and, if appropriate, eliminate the causes of ill-treatment, abuse and any form of violence within the family. For the same reason, the judge may summon public agencies and non-governmental bodies concerned with preventing violence and assisting victims.

Art. 8. The following paragraph shall be incorporated as the second paragraph of article 310 of the Code of Criminal Procedure (Act No. 23,984):

'In proceedings brought for any of the offences covered by book two, titles I, II, III, V and VI and title V, chapter I, of the Penal Code, which are committed within a cohabiting family group, even if the group in question is constituted by a de facto union, and provided the circumstances of the case give rise to a well-founded presumption that the incident may recur, the judge may order the exclusion of the accused from the home as a precautionary measure. If the accused has duties as regards assisting his family and his exclusion would jeopardize the provision of the means of subsistence, the juvenile court assessor shall intercede to ensure that the appropriate actions are taken.'

Art. 9. The provinces are hereby invited to enact similar norms to those set out herein."

106. Furthermore, on 6 May 1994 the Senate submitted a bill instituting the suit of family amparo in order to put an end to acts of violence or abandonment affecting any member of a family group.

"Bill

Art. 1. The suit of family amparo is hereby instituted in order to put an end to acts of violence or abandonment affecting the physical or mental integrity of the members of a family group, and which are caused by a member of the group or by a third party without effective opposition thereto from the members of the group.

Art. 2. The suit may be filed by any person who considers that he has suffered injury or physical or mental ill-treatment, by the legal representatives of minors, legally incompetent persons and elderly persons, the Government Procurator's Office and administrative officials or agents who, in the performance of their duties, learn of any circumstances that make such a suit appropriate.

Art. 3. The suit shall be filed with any judge, who shall refer it to whomever has jurisdiction in criminal and/or family matters, without prejudice to any emergency measures that are necessary being ordered. The suit may be filed orally or in writing.

Art. 4. Within 24 hours the judge shall order evidence to be gathered concerning the act in question and the situation of the victim of domestic violence and:

He shall order the intercession of the competent public agencies to implement measures to put an end to the injury and to eliminate its causes;

He shall authorize the intercession of the Government Procurator's Office in order to institute criminal proceedings if the nature of the act so requires;

He shall order the appropriate emergency and precautionary measures.

Art. 5. Article 234 of the Federal Code of Civil and Commercial Procedure is amended as follows:

'In order to safeguard the physical and mental integrity of persons, judges may:

Order the exclusion of the physical or mental aggressor from the family home;

Prohibit access by the physical or mental aggressor to the victim's home or to his or her place of work or study;

Order the return to the home, at their request, of any persons who have been compelled to leave the home for reasons of personal safety, with the exception of the perpetrator;

Order the placement in the hands of a legal guardian:

Of a woman below the age of majority who attempts to contract matrimony, enter a religious community or perform a particular activity against the will of her parents or guardians;

Of juveniles or legally incompetent persons who are ill-treated by their parents, tutors, custodians or guardians or induced by them to perform unlawful or dishonest acts or exposed to serious physical or moral risk;

Of minors or legally incompetent persons who have been abandoned or who have no legal representative, or if the latter are prevented from performing their duties;

Of legally incompetent persons engaged in litigation bearing on parental authority, guardianship or curatorship, or the consequences thereof, with their legal representatives;

Issue an interim order concerning maintenance, custody and the right to communicate with the children.'

Art. 6. The following shall be incorporated as the second paragraph of article 310 of the Federal Code of Criminal Procedure (Act No. 23,984):

'In proceedings brought for any of the offences covered by book two, titles I, II, III, V and VI and title V, chapter I, of the Penal Code, which are committed within a cohabiting family group, even if the group in question is constituted by a de facto union, and provided the circumstances of the case give rise to a well-founded presumption that the incident may recur, the judge may order, as a precautionary measure, the exclusion of the accused from the home. If the accused has duties as regards assisting his family and his exclusion would jeopardize the provision of the means of subsistence, the juvenile court assessor shall intercede to ensure that the appropriate actions are taken.'

Art. 7. For the purposes of a suit for amparo, 'family group' shall mean both a family group resulting from marriage and one arising from a de facto union.

Art. 9. The provinces are hereby invited to enact norms similar to those set out herein."

107. In addition to the numerous preventive and protective programmes for children within the sphere of competence of the National Council for Children and the Family, particular attention should be drawn to the programme of treatment within the social environment, whose aims include the following:

"To provide guidance and treatment to groups of family members showing symptoms of physical or mental ill-treatment, neglect, abuse or any form of abnormal intra-family relationship, by means of measures for the prevention and treatment of domestic violence".

108. In its day-to-day practice, the National Council for Children and the Family comes up against cases of ill-treatment of children. These generally involve non-accidental physical and/or psychological damage resulting from acts or omissions, which are frequently attributable to adults responsible for caring for children within the family.

109. In recent years, there has been an increase in the incidence of these and related cases, partly on account of the exhaustive study and publication of indicators concerning the ill-treatment of children and the consequent gradual development of public awareness of the issues raised by it. This heightened awareness has made it possible to detect and denounce situations that were hushed up for many years.

110. Physical ill-treatment, neglect, sexual abuse, exploitation at work and emotional abuse, which includes forcing children to witness acts of domestic violence, grievously affect the normal physical, psychological and social development of the victims, and give rise to a number of individual pathologies and to social maladjustment.

111. It is also noticeable that children who suffer ill-treatment within their family generally ill-treat their own children as adults, thereby perpetuating the inter-generational cycle of domestic violence. Acknowledgement of this problem, and analysis of its harmful consequences for children, the family and society, have given rise to a number of theories that endeavour to identify its causes.

112. Conventionally, intra-family violence has been considered as the result of individual shortcomings, personality traits or psychopathological disturbances affecting a member of the family. This individual approach has been called into question by numerous specialists, leading to a conceptual change which, while acknowledging the importance of individual factors, shifts the focus from the individual to the family, social and cultural environment.

113. The growth of interest in the study of all the variables with a bearing on the ill-treatment of children has led to a more comprehensive explanatory model, which depicts it as the result of a combination of manifold factors which interact both within the individual system and within intra-family relationships, in transactions between families and systems outside the family, and within the macrosystem and its cultural variables.

114. Within the individual system, analysis of the character traits of parents is of vital importance in identifying variables that lead to ill-treatment: a personal background of ill-treatment, low self-esteem, depression, dependency, a lack of skill in solving problems, low ability to control aggressiveness, addiction, expectations towards children that are inconsistent with their role and level of development. In addition, certain character traits of children may contribute to the appearance and/or continuation of the problem: physical and/or intellectual disability and behavioural problem (hyperactivity, impulsiveness, aggressiveness).

115. Where the family system is concerned, a study of intra-family relationships has made it possible to identify the following factors in these cases: inadequate parental control strategies, inability to bring up children, discipline based on violence, punitive control, rejection and/or arbitrariness, lack of communication, conjugal disputes.

116. These traits are compounded by the finding that families in which there is a high level of violence are as a rule socially isolated and/or in a conflictual relationship with the extra-family environment, making it essential to examine the nature of such interaction: strength of the relationship with the community, involvement in informal organizations and voluntary activities, use of community welfare resources, participation in social, religious and recreational activities, interest in political, intellectual and cultural activities.

117. Lastly, it is essential to carry out an assessment of those variables within the socio-cultural system that encourage ill-treatment: forms of social organization, systems of belief, norms and values that legitimize violence, inadequate community satisfaction of basic physical, psychosocial and psychocultural needs, inadequate services to deal with crises, lack of appropriate legislation.

118. By defining the characteristics of these systems, it is possible to identify, in each particular case, some of the variables mentioned and to assess the contribution of each of them to the emergence of the problem. This approach, which is based on acknowledgement of the multidimensional nature of the problem of the ill-treatment of children, helps properly to select and apply the necessary preventive and support measures to diminish the frequency of ill-treatment, its duration and/or the damage it causes.

119. The action taken may focus on one of the systems analysed, or on a combination of them, and adopt strategies involving an individual, family, institutional or community approach: programmes to strengthen family ties, therapeutic programmes, self-help groups, emergency phone lines, human rights promotion campaigns, educational programmes to bring about a change in attitudes, training for family life and the performance of societal roles, establishment of training, supervisory and consultative bodies for health professionals, teachers and specialists, and organization of voluntary groups.

120. In order for these and other measures to go ahead, a contribution is required from various fields of knowledge that tackles the problem from a multidisciplinary angle and transcends specialized codes. It is also very important to provide a suitable legal framework for such measures in order to ensure and monitor their implementation and to encourage coordination and linkage among institutions as well as community involvement. It is likewise essential carefully to consider the contribution made by our own beliefs, ideas and feelings when investigating, developing an understanding of and dealing with a phenomenon which affects the most vulnerable members of society and which generally generates a feeling of anguish, impotence and horror in those who witness it. We must not lose sight of the fact that respect for the best interests of the child makes it incumbent on us to carry out a rigorous analysis of a child's circumstances before deciding on the most suitable treatment or the viability of his biological or adoptive links or the need to remove him from them.

121. A comprehensive approach to the problem will help to protect victimized children from repeated abuse, tear aside the veil of silence by encouraging denunciations and make provision for suitable treatment for those who ill-treat children and their victims, avoiding, wherever possible, the removal of children from their family environment.

Item 21

122. The persons benefiting from the Prevention Programme for Subsidized Families are family groups who, while apparently capable of looking after their members, especially the younger ones, are going through a family crisis or are seriously at risk of finding themselves in a crisis, brought about, exacerbated or precipitated by a decline in income or a lack of the income required to meet the group's basic needs.

123. The programme operates through grants of economic aid to families who are at risk, with an allowance for each minor child and one for the father, mother, guardian or legal representative. The programme also provides for the payment of an extraordinary allowance to deal with an exceptional socio-economic crisis affecting the family or to purchase machinery or tools that allow the family to set up a small productive enterprise.

124. The programme covers a total of 22,000 families and some 100,000 minors each year, encouraging the mobilization of their own resources in addition to the subsidy so that crisis situations can be dealt with effectively and family break-up prevented.

125. This specific programme is supplemented by provincial and municipal activities, sometimes in the form of programmes designed for the purpose (for example, PAICOR in Córdoba province, PROASI in Formosa province and the Integrated Mutually Supportive Food Programme in Buenos Aires province) and sometimes in the form of social and labour action.

Item 22

126. Housing in Argentina is the responsibility of the National Housing Fund, which has been operated by the individual provinces and the municipal authorities of the city of Buenos Aires since 1992. In addition, the national housing budget for 1995 is $998 million.

127. The Emergency Housing Subsidy Scheme is intended for family groups with dependent minor children and young adults in emergency situations because of lack of housing, priority being given to:

(a) Family groups composed of juvenile mothers protected by this organization, who depend on the emergency facility for reintegration into their social environment;

(b) Mothers alone with dependent minor children, whose income is low or who are unemployed and without accommodation;

(c) Both parents with dependent minor children who, for duly attested reasons, are going through an emergency and need the facility;

(d) Minor adults of both sexes, with prospects for personal development and adaptation to the environment, who need a transitional development period.

Item 23

128. The National Programme of Action against Human Retroviruses and AIDS has information about persons who are ill but not about persons who are infected, notification of such cases being mandatory under Act No. 23,798. The first cases in the country date from 1982 and by April of the current year 3,926 cases had been recorded, of which 10.5 per cent involved minors under 19 years of age.

129. The National Council for Children and the Family (CNMF) has an HIV infection control and prevention programme, which is described below:

"1. Objectives

1. To prevent the transmission of HIV infection and of the infections most frequently associated with HIV infection (hepatitis B, sexually transmitted diseases, tuberculosis, etc.), within the CNMF's sphere of competence;

2. To reduce morbidity and mortality associated with HIV infection;

3. To promote the establishment of centres providing treatment and guidance, within the CNMF's sphere of competence;

4. To promote activities to deal with the social problems deriving from the infection (adoption of HIV-positive children or their placement with families; reintegration of HIV-positive persons in society, in the family, in employment etc.);

5. To promote legislation to help control the spread of the infection, to prevent discrimination and to provide proper care for the families concerned.

2. Activities

(a) Improving the overall health of the target population;

(b) Preventing sexual transmission;

(c) Preventing parenteral transmission;

(d) Preventing vertical transmission;

(e) Providing proper care for the individuals and families concerned;

(f) Participating in epidemiological monitoring;

(g) Educating and training professional and non-professional personnel as outreach, information and training agents;

(h) Promoting research;

(i) Continuous monitoring of the situation in its area of competence."

130. Studies by the National Council for Children and the Family in 1987-1988 concerning the prevalence of HIV infection among adolescents (average age 16) whose behaviour places them at risk showed that 25.6 per cent (40/156) had HIV antibodies when tested by the ELISA, particle agglutination and Western Blot methods. This ratio increased to 53.5 per cent for the group reporting addiction by intravenous methods and dropped to 2.3 per cent for the group that was either non-addictive or did not use intravenous methods.

131. In the light of this situational analysis, work began on a programme of prevention and control of the pandemic. The basic aims of the activities were:

(a) To design an educational strategy that would promote preventive behaviour;

(b) To ensure the availability, as a right, of reliable HIV laboratory tests;

(c) To have such tests carried out in a context conducive to communication with the patient;

(d) To ensure confidentiality of the results;

(e) To avoid discrimination of any kind;

(f) To implement universal biosafety measures;

(g) To ensure the best possible treatment available in the light of scientific progress.

132. Serological studies of HIV infection carried out during 1992/93 using the diagnostic methods mentioned above show that only 7 per cent (29/410) of adolescents with the same characteristics and of the same average age were infected. It is interesting to note that the infection also diminished, to 34.21 per cent, in the group reporting intravenous addiction. An increase to 4.3 per cent was observed in the group not using the intravenous method, possibly indicating greater difficulty in preventing infection through sexual contact.

133. This indicates a trend towards more self-protective behaviour among these adolescents, who identify intravenous addiction as a high-risk form of behaviour. This is borne out by the fact that in 1987/88 45.5 per cent of them reported using the intravenous method, compared with only 9.27 per cent in 1992/93.

134. We consider that the organization of discussion forums with this group of young people, at which they play the leading role, promotes self-protective behaviour by word of mouth while they are in one of our programmes or

institutes or in the street. The forums, which are attended by the entire staff of professionals, technicians, administrators, teachers and others, provide an opportunity to introduce the concept of prevention and self-protection in daily life.

135. We believe that there are various interrelated factors involved in the reduction of HIV infection among these adolescents: a change in the impact of the pandemic when it spreads and begins to claim the lives of acquaintances, a better knowledge of forms of transmission and the previously mentioned prominence given to the adolescents as promoters of self-protective behaviour.

136. A fact that should not be overlooked is that 95 per cent of HIV-positive young people reported intravenous drug addiction in 1987/88, compared with only 44.8 per cent in 1992/93. This indicates that 52.2 per cent of them probably acquired the infection by sexual contact.

137. Studies during the period 1991-1993 of adolescents aged 13 on average who spend most of their lives in the street showed that only 0.21 per cent (1/476) were HIV positive. The challenge before us is to prevent those children from reaching the 7 per cent recorded for older age groups by stepping up educational programmes and developing safe-sex strategies, while respecting their dignity as individuals.

138. Paediatric AIDS is basically related to mother-child transmission. According to National Programme data for the period up to 31 March 1994, 253 cases have been recorded (88 per cent from HIV-positive mothers, 5 per cent from transfusions and 4 per cent from haemoderivatives in the under-15 age group). In cases of abandonment associated with HIV infection, it is essential to find a family environment for the children. The National Council for Children and the Family has promoted such family reintegration through special programmes that provide training and technical support for family groups incorporating minors with this problem.

Item 24

139. The Ministry of Health and Social Welfare has implemented the National Mother and Child Action Plan in fulfilment of the obligations assumed through ratification of the Convention on the Rights of the Child.

140. In 1991 the targets of the World Summit for Children were adopted in the light of national circumstances, with the assistance of scientific associations and heads of mother and child programmes in all the provinces. Agreement was eventually reached on a National Mother and Child Pact and a National Committee was set up the following year to ensure fulfilment of these goals.

141. Although the health sector is responsible for most of these activities, it works in cooperation with other sectors such as education, the National Council for Children and the Family, environmental health and housing.

142. The Mother and Child Action Plan covers the whole national territory, and responsibility for its implementation, at the federal level and on a decentralized basis, lies with the provincial health authorities. The

Ministry of Health and Social Welfare assumes overall responsibility for the Plan, while the representatives of health affairs in the provinces are responsible for implementation of its operational aspects in their respective regions and at the municipal level.

143. Coverage is estimated at 300,060 pregnant women, 266,970 infants under the age of 1, 266,970 infants aged between 1 and 2, and 166,740 undernourished children.

144. The efficiency and effectiveness of the Plan are ensured through coordination of activities in the areas of health, social action and education. The Plan's target population are actively involved alongside workers dealing with health, social action and education and members of governmental and non-governmental organizations.

145. It is hoped through implementation of the Plan to improve the running and management of both public and private provincial bodies dealing with maternal, child and nutritional issues. To that end, steps are being taken to develop institutional capabilities in the provinces through training and technical assistance and to change existing models of health care, initial education and school canteens.

146. Non-governmental organizations, universities and scientific associations participate actively with government agencies in planning, implementing and evaluating the activities.

147. The National Mother and Child Action Plan is designed to ensure the proper growth and development of children from gestation until the end of adolescence. To that end, its key strategy is primary health care and supplementary feeding under a sustainable and comprehensive policy that ensures coverage for mothers, children and adolescents belonging to the most deprived sectors of society in accordance with criteria of equity and differentiated strategies for crisis areas.

148. The goals of the National Mother and Child Action Plan agreed by the Secretariat of Health of the Ministry of Health and Social Welfare, the Argentine Paediatrics Society and UNICEF Argentina are as follows:

(a) Child health:

(i) To reduce the country's infant mortality rate to 20 per thousand in districts that exceed the national average;

(ii) To reduce the under-five mortality rate to less than 23 per thousand nationwide, focusing on districts that exceed the national average;

(iii) To reduce late foetal mortality by one third;

(iv) To keep vaccination coverage at over 90 per cent throughout the country;

(v) To eliminate neonatal tetanus;

(vi) To control measles;

(vii) To reduce morbidity rates for diarrhoea and acute respiratory infections; to halve the mortality rate in such cases;

(viii) To reduce by 20 per cent the accident mortality rate for the under-5 age group;

(b) Maternal health:

(i) To reduce the maternal mortality rate to less than 0.4 per cent, focusing on districts that exceed the national average;

(ii) To increase anti-tetanus vaccination coverage for women of child-bearing age; to achieve 90 per cent TT coverage for pregnant women;

(iii) To monitor pregnancy from the early months of gestation (minimum of five check-ups);

(iv) To conduct post-partum check-ups of mothers and newborn infants and take measures to prevent genital and breast cancer;

(v) To develop programmes of responsible parenthood throughout the country;

(c) Nutrition:

(i) To eliminate severe malnutrition throughout the country;

(ii) To monitor the growth and development of 80 per cent of children under 5 years of age;

(iii) To reduce the incidence of underweight and premature births to less than 7 per cent;

(iv) To control iron and iodine deficiency;

(v) To encourage breast-feeding, so that 60 per cent of children are exclusively breast-fed at least up to the age of four months.

149. In coordination with the Action Plan, the Ministry of Health and Social Welfare is implementing a Mother, Child and Nutrition Programme (PROMIN) as part of the process of economic and social change being pursued by the Government and with a dual focus in terms of the target population: people living in areas where structural poverty prevails and, within that population, women of child-bearing age and children under the age of 6.

150. The objectives of the Programme are to reduce maternal and infant morbidity and mortality rates by means of improved targeting and better

design, implementation and coordination of health, nutrition, supplementary feeding and child development services and programmes; promotion of the psychosocial development of children in the 2 to 5 age group and improved efficiency of existing school canteen programmes. The total duration of the programme is 6 years.

151. Its fields of action are:

(a) Health: Development of the institutional capacity of the health system at the primary care level (health centres) and the primary referral level (hospitals) in the areas of intervention with a view to optimizing promotional, preventive and therapeutic activities;

(b) Child development: Gradual conversion of children's canteens and kindergartens into child development centres (CDIs), with nutritional care. Monitoring of growth and development, stimulative activities and use of preschool teaching techniques to guard against the disadvantages associated with school failure;

(c) Nutrition: Remedial nutrition and supplementary feeding for pregnant women (also during lactation) and children under 6 years of age. The activities will be incorporated in the health and child development components.

152. In 1991, the Secretariat of Health, recognizing the vital importance of comprehensive health for adolescents and the need to meet the health and development needs of present and future members of that age group, created within the new structure of the Ministry a Department of Child and Adolescent Health Care and prepared a preliminary draft National Comprehensive Adolescent Health Plan, which is being considered by the heads of the Mother and Child Programme in the different administrative divisions of the country.

153. In 1992, at the National Meeting of the Directorate of Mother and Child Health, it collaborated with the programme chiefs organized by region and, as a result of this process and in accordance with resolution IX of the Directing Council of the Pan American Health Organization which it endorsed, in March 1993 it addressed the need to implement the National Comprehensive Adolescent Health Plan within the conceptual framework proposed by the Comprehensive Adolescent Health Programme in the Americas.

154. In the light of the policies pursued by the Secretariat of Health and in accordance with our country's National Mother and Child Pact, the general aims consist essentially in the promotion and protection of adolescent health through increasing coverage of services in terms of quality and quantity. The specific aims are:

(a) To recognize adolescence as a specific stage in the life of the individual, with its own needs and rights and with implications for the individual's future;

(b) To include biological, psychological and sociocultural dimensions in the concept of health in a family and community context;

(c) To promote equal opportunities for adolescents, having regard to the concept of equity;

(d) To make provision for different age groups within adolescence;

(e) To mobilize all available resources within and outside the sector in order to promote comprehensive adolescent health through the prevention of prior damage and risks;

(f) To encourage a preventive approach in all forms of care;

(g) To provide health services that cater to the needs of adolescents, adopting an interdisciplinary approach;

(h) To discuss and formulate coordinated strategies with other sectors;

(i) To promote inter-agency (governmental or non-governmental) national and international activities and the involvement of universities, scientific associations and other non-governmental organizations in the planning, implementation and evaluation of activities;

(j) To promote active community involvement, particularly by adolescents, in all stages of the plan;

(k) To encourage the effective use of communication strategies to ensure full implementation of the activities;

(l) To take account of the influence of regional characteristics on the needs of adolescents and their environment, promoting and supporting the programmes of the administrative districts;

(m) To encourage standard-setting and to promote operational research on this age group and the evaluation of programme strategies and results;

(n) To stimulate the creation and operation of institutional networks, using existing resources.

155. The National Council for Children and the Family, under its specific programmes for the prevention of abandonment and ill-treatment and for family therapy, attends to various biological, psychological and social aspects of mother and child health. The following, for example, are some of the objectives of the Programme for the Prevention of Abandonment and Ill-treatment:

(a) To look after minors at risk who are receiving medical care in hospitals, clinics, maternity hospitals, etc.;

(b) To provide support to the family and/or group living together with a pregnant mother to ensure timely emotional, economic and social support for the mother-child bond, within and outside the health-care centre;

(c) To identify persons in hospitals, maternity hospitals and clinics who run the risk of untimely dissolution of the mother-father-child bond and to assist them through the resources of the organization and of other institutions to prevent dissolution of the bond;

(d) To prevent exacerbation of the risk situations of minors receiving treatment in hospitals (drug addiction, ill-treatment, delinquency, family break-up, etc.);

(e) To channel relevant institutional resources to families with malnourished children;

(f) To offer timely and appropriate training to hospital and health centre staff in connection with the risk of dissolution of the mother-father-child bond;

(g) To give advice to teams of social workers and medical staff on all matters relating to protection of the mother-child bond;

(h) To encourage mothers to look after their own and their child's health through strict compliance with medical recommendations, giving special attention to early stimulation of their babies.

156. The external temporary fostering scheme for children requiring special care seeks to facilitate the total or partial recovery of children in the care of the organization. A child suffering from an illness requiring specialized treatment may be placed in a family environment, where he or she will receive individual care. The special external fostering services are designed for children with disability problems, and the allowances paid to temporary foster-mothers vary according to the nature of the disability. The scheme is supervised by the Department of Health. Only two or three children can be placed with a foster-mother at a time, and the period of fostering is longer on account of the children's special problems. Another element of the scheme consists of external temporary foster-mothers who care for HIV-positive children. This element was introduced into the scheme following the emergence of the AIDS problem. In view of the specific requirements of these children, the foster-mothers receive special allowances; the foster-mother has only one child in her care and is monitored continuously by the Department of Health. This scheme also accepts abandoned children, but without prejudice to other schemes for HIV-positive children whose mothers continue to maintain family relations with them.

157. Two significant facts should be mentioned as a corollary to the Argentine stance on behalf of special mother and child care:

(a) In March 1994, the President, the governors and the Mayor of Buenos Aires signed a Federal Mother and Child Pact in which they undertook:

(i) To give absolute priority to mothers and children and to adapt the goals to their particular circumstances when preparing their respective plans, while preserving the spirit of the National Action Plan;

(ii) To promote comprehensive community care networks for mothers, children and adolescents in the provinces and the city of Buenos Aires;

(iii) To promote the reform of existing legislation to bring it into line with the Convention on the Rights of the Child;

(iv) To eliminate all forms of exploitation of children and adolescents;

(v) To create conditions in which children are assured proper growth and development from gestation to the end of adolescence;

(vi) To make optimum use of human and economic resources in the areas of mother and child care;

(vii) To guarantee the promotion of mother and child care in indigenous communities, taking into account and respecting the distinctive cultural characteristics of each ethnic group and eschewing all forms of discrimination;

(b) Article 75 (23) of the new National Constitution states that the National Congress shall be responsible for "establishing a special comprehensive social security system to protect defenceless children from pregnancy until the end of elementary education and mothers during pregnancy and lactation".

Item 25

158. The National System of Health Statistics, in its regular reports, does not differentiate between urban and rural areas; the data are computerized in global form in the provinces and not by establishment. Despite this, the 1985 document describing the health situation in Argentina produced jointly by the Ministry of Health and Social Welfare and the Pan-American Health Organization gives figures for 2 million residents of rural areas and 200,000 residents of the peninsular and urban areas covered by the primary health care programme.

159. In August 1990 the National Programme of Health Statistics (Federal Ministry of Health and Social Welfare), together with the Permanent Household Survey (National Institute of Statistics and Censuses), carried out a survey on the use of, and expenditure on, health services in all provincial capitals except those of Chubut and Río Negro. The analysis of the information on the percentage of the population affiliated to some health care system presented in this publication shows that the age groups with the lowest percentage of affiliation are generally children under 5 years of age and adults between 20 and 29 years of age.

160. It should be pointed out that in some provinces there are areas that are densely populated in relation to the province as a whole (Comodoro Rivadavia in Chubut, the Alto Valle del Río Negro area in Río Negro, Rosario in Santa Fé, Bahía Blanca in Buenos Aires, Río Grande in Tierra del Fuego), but

there is no differentiation between urban and rural areas, although it can be presumed from the area covered by the Permanent Household Survey that the data relate mostly to urban centres.

Item 26

161. The health budget forms part of the budget for social services, which also includes social development and welfare, social security, education and culture, science and technology, housing and town planning, and drinking water and sewerage; the amount assigned to it for 1995 is $27,806,200,000, representing 64.8 per cent of the Federal budget. For the same year, $1,019,200,000 have been assigned to the health area, representing 3.7 per cent of the total amount for social services.

162. In 1993 the amount transferred to the districts for the implementation of the maternal and child health programme was $61,990,344, an amount which covers a broad spectrum of facilities, ranging from milk or medicines to equipment or the training of human resources.

Item 27

163. The right to education based on equal opportunities is guaranteed by Federal Education Act No. 24,195*.

164. The National Programme for the Rights of the Child, under the auspices of the Federal Ministry of Culture and Education, has adopted measures to include the rights of the child in the school curriculum, one of the basic objectives being "to propose curricular alternatives to address the issue of the rights of the child in study programmes in the best possible manner" and "to provide didactic support, technical advice and specific training to teachers so that in their work they have greater resources with which to educate children in the knowledge and exercise of their own rights".

165. In turn, the Integral School Canteen Subprogramme is intended to make good deficiencies in family nutrition by protecting and raising the nutrition and health status of the school-age population, as a starting-point for promoting various activities designed to mobilize the communities' own resources and capacities.

166. The purpose of the participation of the School Cooperative Associations is to involve community organizations in the use and management of funds provided by the State, which thus fulfils its welfare objective. The school canteens serve as a basis for further activities which give the Programme special characteristics going beyond the mere provision of food. This should generate in each community the motivation required for it to join in other activities which remedy the most pressing shortcomings through the general development of the human person.

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* The full text is available for consultation in the files of the Committee secretariat.

167. A number of programmes are carried out under the auspices of the National Council for Children and the Family. The purpose of the Study Scholarship Programme (decision 142, File No. 50,204/90) is to provide assisted minors with opportunities for the all-round development of an independent personality, for their training in accordance with their needs, interests and aptitudes, and for their integration into their family, social and national setting.

168. In its implementation the Programme will seek to avoid the institutionalization of minors for the purpose of facilitating their access to education and to promote the de-institutionalization of minors who have been institutionalized for that purpose, without prejudice to its extension to beneficiaries of the various programmes and protection activities carried out by the National Directorate for Minors and the Family in keeping with the stated objectives.

169. These scholarships will be open to minors of up to 20 years of age who satisfy the following requirements:

(a) They meet the moral, intellectual and behavioural standards needed for the studies or training to be initiated and/or continued;

(b) They lack the individual and/or family resources required to finance their studies in a reasonable manner.

170. This programme is designed as a suitable tool for granting scholarships that will make it possible to meet the cost of studying and to make good any reduction or inadequacy of income arising from the minor's pursuance of his responsibilities as a student.

171. The Permanent Education and Vocational Training Programme (decision 149/92, National Council for Children and the Family) was established to develop principles for personalized and ongoing education - to form the ideological basis of the system and to ensure flexible adaptation according to the needs of the person assisted, participation and integration within the community and full utilization of the overall educational services available. This has involved the transformation of an institution closed in on itself and claiming to be self-sufficient into one that is open to the community, not only in providing services, but also in seeking and utilizing them, thus linking the person assisted with his social environment.

172. The Permanent Education and Vocational Training Programme provides a means of departing from the institutional models of the early twentieth century, conceived for the education of minors in boarding establishments, and, instead, providing opportunities for the training of all assisted persons. Under this system, the minor, whether within the family unit or assisted by the institution through its programmes, is furnished the means of paying for a teacher or vocational instructor, regardless of the type of service provided.

173. The novel aspect of this system is that it makes possible instruction at home in non-standard situations, as in the case of minors deprived of liberty by court order, illness, discrimination (HIV, victims of offences, pregnancy, etc.), so that their circumstances do not affect their education or their integration into the world of work.

174. This programme has also placed emphasis on recreational activities. A Recreation Department has therefore been established which seeks to develop habits of socialization and to strengthen self-esteem.

175. The principal function of the Recreation Department is to carry out the Cultural Recreation Programme in all areas for which the National Council for Children and the Family is responsible. Its activities consist of the following:

(a) Coordination of the activities of the recreation centres operated by the National Council for Children and the Family;

(b) Development and supervision of the planning of holidays for persons assisted by the National Council for Children and the Family;

(c) Organization and supervision of recreational, cultural and sports activities for persons assisted under the various programmes of the National Council for Children and the Family;

(d) Participation in the Eighth Seminar on Disability and Information, Mexico; Second Iberoamerican Conference on the Family, Valparaíso, together with persons assisted by the Council.

Item 28

176. As already mentioned under item 11 in the present document, the Federal Council for the Protection of Children is responsible under Act No. 15,244, as amended, for execution of the functions devolving upon the State in the area of protection of minors. This responsibility covers all minors who are in institutions and are under its care.

177. In many provinces of the Argentine Republic, juvenile courts have been established, some of which have competence in criminal cases and all of which have competence in civil cases and welfare matters, as provided in Act No. 10,067/87, articles 1, 2, and 10, as referred to under item 11.

178. Furthermore, article 3 of Act No. 22,278 provides that "... compulsory custody of a minor may be ordered by the courts, for the purpose of ensuring for him an appropriate upbringing and providing him with full protection ...".

179. Article 1 of Act No. 22,803 states: "... where necessary, the minor shall be placed for the necessary period in an establishment providing better facilities for study ...".

180. According to the National Population and Housing Census carried out in 1991, a total of 370,061 persons were living in community homes and 12.1 per cent of these were under the age of 14 years.

181. As regards recreation for children in institutions, the National Council for Children and the Family has a Recreation Department whose main function is "to carry out the cultural recreation programme in all areas for which the Council is responsible". This department is responsible for organizing and supervising recreational, cultural and sports activities for minors, elderly persons and the disabled and for securing the active participation therein of these persons and of the community (see para. 175).

182. During 1993, 8,300 children, young people and elderly persons benefited from vacations and 9,396 participated in marathons, competitions and camping holidays. These are just some examples of the many activities carried out daily in the field of recreation.

183. In addition to the holidays organized at various tourist centres in Argentina and the sports activities already mentioned, outings are arranged, as well as visits to museums, historical sites, etc.

184. Specially worth noting is the attendance of minors under all the programmes of the National Council for Children and the Family (including those receiving treatment in institutions) at national and international congresses, seminars and meetings where questions relating to family and minors' issues are discussed. Their attendance constitutes a valuable experience for them.

Item 29

185. In the case of administration of justice by the juvenile courts, the death penalty is not allowed.

186. It was in 1971 that, by a provision included in Act No. 18,953, this penalty was incorporated in the Penal Code. This provision was later repealed by Act No. 20,043, but the penalty was reintroduced under Act No. 21,338, reflecting an alternation of mild and rigorous approaches.

187. Act No. 23,077, in its turn, has repealed the provision for a death penalty, which is now abolished in the case of those offences for which it was provided, which included: article 80 bis, aggravated homicide; article 142 ter, unlawful deprivation of freedom causing death; article 186 (d), arson causing death or very serious injuries, for subversive ends; article 186 bis (d), explosion or release of nuclear energy causing death or very serious injuries, for subversive ends; article 190 (4), endangering the safety of a ship, a floating structure or an aircraft, causing death or very serious injuries, for subversive ends, etc.

188. The death penalty may not be restored, Argentina being a signatory to the American Convention on Human Rights, or "Pact of San José, Costa Rica" ("The death penalty shall not be reestablished in states that have abolished it", art. 4 (3), Boletín Oficial, 27/0384/).

189. For Acts Nos. 22,278 and 22,803, see paragraphs 101 and 102.

190. The Penal Code provides as follows:

"GENERAL

Art. 410. In cases involving individuals under eighteen (18) years of age, proceedings shall be conducted in accordance with this Code, with the exceptions laid down in this chapter.

DETENTION AND ACCOMMODATION

Art. 411. A child shall only be detained when there are grounds for believing that he will not comply with a summons or will attempt to destroy the traces of the act or collude with his accomplices, or will induce false statements to be made. In such cases the child will be housed in a special establishment or section, separately from adults, where he will be classified according to the nature and mode of execution of the act ascribed to him, his age, psychological development and other background data and his social adaptability. Any measures concerning him shall be taken following a report by the juvenile court assessor.

PROTECTIVE MEASURES

Art. 412. The presence of the young person at the examination proceedings shall as far as possible be avoided; the court shall observe the provisions of article 76 on the subject. The court may provisionally decide to entrust the care and upbringing of any child in its custody to his parents or another person or institution whose background and circumstances provide moral guarantees, following an administrative inquiry, a hearing of the interested parties and a report by the juvenile court assessor. In such cases, the court may appoint a delegate to exercise direct supervision and protection of the young person concerned and report periodically on his conduct and living conditions."

191. On 27 June 1991 the Criminal and Correctional Divisions of the National Court of Appeal gave the federal police authorities the necessary directives for strict compliance with the provisions of Act No. 10,903 and articles 171-177 of the Court Rules relating to police premises for minors below the age of 18 years and immediately notified the Correctional Division of the Juvenile Courts. These articles read as follows:

"Art. 171. A police officer apprehending on the public highway a minor under the age of 18 years on suspicion of commission of an offence or misdemeanour shall seek to avoid any action that will prove mentally disturbing for the minor, both in investigating the offence and in bringing the minor to the police station. The minor shall, if possible, be brought there by car or in a police vehicle. During the minor's presence at the police station he shall be kept in an office or place where he will not be in contact with adult detainees and, except in the case of a minor who has shown himself, because of the offence committed, to be very dangerous, he shall not be placed in a cell. If this security measure is made necessary by the above-mentioned circumstances or any other factor, the minor shall be placed in a cell separate from other

detainees. Particular care must be taken to ensure that the precautions referred to in this article are fully carried out where the minor is a female.

Art. 172. Temporary handing over of minors. In the case of commission by a minor of an offence or misdemeanour, where there do not appear to be any problems of behaviour or of moral or physical abandonment, the parents or guardian shall be summoned to appear and the minor shall be handed over to them on a temporary basis with the notification that they must bring him before the competent judge within five days.

Art. 173. If the official conducting the examination proceedings has doubts as to the desirability of leaving the minor under the control of his parents or guardian, because of moral unsuitability of the home or for any other reason, he shall consult by telephone the judge dealing with the case and shall act in accordance with the instructions he is given.

If the minor is clearly dangerous, the official shall, as soon as the examination proceedings permit, hand him over to the admission and classification office of the National Minors' Service and inform by telegram the court dealing with the case.

Art. 174. Duration of stay at the police station. Efforts shall always be made to ensure that the minor does not remain longer at the police station than is strictly necessary for the preliminary police procedures for the prevention of crime.

Art. 175. Report on family circumstances. While the examination proceedings are being carried out, the investigating official shall request that a social worker in the Under-Secretariat for Children and the Family should prepare a full report on the minor's family circumstances, his background and his record, as well as on the background and records of the parents or guardians, and provide, on the form approved by the Correctional Division, an opinion concerning the minor's general situation.

This information shall be transmitted to the judge dealing with the case, together with information relating to persons considered to be the victims of or to have suffered from any criminal act who are under the age of 18 years.

Art. 176. Competence in respect of petty misdemeanours and contraventions. The competence of the local Chief of Police and Mayor in respect of petty misdemeanours and contraventions by minors having been replaced by that of the correctional court judges (Act No. 10,903, art. 18), the action to be taken by the police or municipal authorities in such cases shall be of a pre-trial nature and shall conform to the provisions of the preceding articles. A record of the proceedings shall be delivered to the Juvenile Correctional Court within 24 hours.

Art. 177. Publicity. In no case shall the name of any minor under the age of 18 years who is charged with an offence or accused of a contravention be published, nor shall any details of his filiation or circumstances which might identify him be revealed. The court shall request the cooperation of newspapers, periodicals and press agencies with a view to avoiding publication of facts or reports that might be morally prejudicial to such minors."

Notes

1/ For some indicators, it will be necessary to work with vital statistics.

2/ A nuclear household means a household formed by a primary family nucleus, i.e. a couple without children, a couple with single children or a father or mother with single children.

3/ A multiperson household means a household of more than one person.

4/ An incomplete household means a household where the spouse of the head is absent.

5/ A situation of overcrowding means one in which three or more persons share a room or two or more persons share a bedroom in a dwelling.